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Friday
March 2, 1984

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Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

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Interstate Commerce Commission

Communications Common Carriers
Federal Communications Commission

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Reporting and Recordkeeping Requirements
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby issues a new subpart in Part 400, Chapter IV, Title 7 of the Code of Federal Regulations, listing the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements contained in all regulations issued by FCIC.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a major rule as defined in Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of the Act.

The Office of Management and Budget (OMB) regulation, 5 CFR 1320 (48 FR 13666, published in the **Federal Register** on March 31, 1983), titled "Controlling paperwork Burdens on the Public", requires FCIC to publish currently valid OMB control numbers for each collection of information requirement contained in its regulations. These numbers must be published in a manner that will ensure codification into the Code of Federal Regulations.

In compliance with 5 CFR Part 1320, FCIC issued a subsection in each of its crop insurance regulations to contain the control numbers assigned by OMB to information collection requirements in those regulations (7 CFR Part 402 *et seq.*). Similar control numbers are included, where applicable, in FCIC's General Administrative Regulations (7 CFR Part 400, Subpart A *et seq.*). The purpose of this action is to issue a new Subpart H in 7 CFR Part 400 to contain OMB control numbers assigned to information collection requirements of all FCIC regulations to facilitate reference and for purposes of amendment and to eliminate the need to publish the same section in each subpart of 7 CFR Part 400.

List of Subjects in 7 CFR Part 400

Administrative practice and procedures, Information collection requirements, OMB control numbers, Reporting and recordkeeping requirements.

Final Rule

Accordingly, in accordance with the provisions of 5 U.S.C. 1320, and the Paperwork Reduction Act, Pub. L. 96–511 (44 U.S.C. Chapter 35), the Federal Crop Insurance Corporation hereby adds a new Subpart H to Part 400 of Title 7 of the Code of Federal Regulations to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart H—Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers.

Sec.
400.65 Purpose.
400.66 Display.

Authority: 5 U.S.C. 1320; Pub. L. 96–511 (44 U.S.C. Chapter 35.).

§ 400.65 Purpose.

This subpart collects and displays the control numbers assigned to information collection requirements of the Federal Crop Insurance Corporation (FCIC) by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). FCIC intends that this subpart comply with the requirements of section 3507(f) of the Paperwork Reduction Act which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

§ 400.66 Display.

(a) Crop Insurance Regulations promulgated by FCIC and contained in 7 CFR Part 402 *et seq.*, contain the following statement:

OMB control numbers.
The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

(b) Specific report title and agency forms approved by OMB under other numbers are as follows:

Crop Insurance Acreage Reports (Selected Crops)
FCI–19, 819 Raisin, 0563–0001
Claim for Citrus Indemnity
FCI–63 Citrus, 0563–0002
Claim for Peach Indemnity
FCI–3, FCI–63 Peach, 0563–0004
Claim for Raisin Indemnity (Adjustment of losses)
FCI–63 Raisin, 0563–0006
Cancellation Analysis, 0563–0008

(c) The information collection requirements contained in 7 CFR Part 400 have been approved by the Office of Management and Budget (OMB) under the provision of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Done in Washington, D.C. on January 3, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 21, 1984.
Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84–5063 Filed 3–1–84; 8:45 am]
BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 453]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 265,000 cartons during the period March 4–March 10, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 4, 1984.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on February 28, 1984, at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.753 is added as follows:

§ 910.753 Lemon regulation 453.

The quantity of lemons grown in California and Arizona which may be handled during the period March 4, 1984, through March 10, 1984, is established at 265,000 cartons.

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

Dated: February 29, 1984.

Russell L. Hawes,

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

[FR Doc. 84–5867 Filed 3–1–84; 8:47 am]

BILLING CODE 3410–02–M

Packers and Stockyards Administration

9 CFR Part 201

Regulations and Policy Statements

Correction

In FR Doc. 84–4199 beginning on page 6080 in the issue of Friday, February 17, 1984, make the following correction:

§ 201.49 [Corrected]

On page 6084, column one, § 201.49 (a), last line, "transmission" should read "transaction".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–ASW–53; Amdt. 39–4819]

Airworthiness Directives; Bell Helicopter Textron, Inc., Models 206A, 206A–1, 206B, 206B–1, 206L, 206L–1 and 206L–3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires a one-time inspection of certain tail rotor blades and repair or replacement as necessary on Bell Model 206A/B/L series helicopters. This amendment is needed since the FAA has determined that a one-time inspection has not been adequate for detecting corrosion and debonding near the tail rotor tip block area. Therefore, the FAA is amending the existing AD by changing the one-time inspection to a 25-hour repetitive inspection.

DATES: Effective March 12, 1984. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Bell Helicopter Textron, Inc., Product Support Department, P.O. Box 482, Fort Worth, Texas 76101.

A copy of the service information is contained in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 100, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877–2594.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–4439 (47 FR 35466), AD 82–17–04, which currently requires a one-time inspection of certain tail rotor blades on Bell Model 206A/B/L series helicopters, and repair or replacement as necessary. After issuing Amendment 39–4439, the FAA has determined that corrosion of the tail rotor blade tip block rivets, failure of rivet heads, and debonding between blade skin and tip block have occurred after compliance with the existing AD.

Amendment 39–4439, AD 82–17–04. Therefore, the FAA is amending Amendment 39–4439 by requiring a 25-hour repetitive inspection of certain tail rotor blades on Bell Model 206A/B/L series helicopters, and repair or replacement as necessary.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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 amending Amendment 39–4439 (47 FR 35466), AD 82–17–04, by revising paragraph (a) and adding a new paragraph (d), with paragraphs (b) and (c) remaining unchanged, as follows:

(a) Inspect tail rotor blades, P/N's 206–016–201–001 and 206–016–201–103, within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 25 hours' time in service, with special emphasis on the tip block area (see Figure 1).

* * * * *

(d) In accordance with FAR 21.197, flight is permitted to a base where the requirements of this AD may be accomplished.

This amendment becomes effective March 12, 1983.

(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); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation involves approximately 4,000 aircraft at a cost of $6 per helicopter for the inspection. The labor cost, if replacement is required, is approximately $90 per helicopter. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Fort Worth, Texas, on February 17, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84–5683 Filed 3–1–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM–83–9–000]

Public Utility Regulatory Policies Act; Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service

Issued: February 24, 1984

AGENCY: Federal Energy Regulatory Commission, DOE

ACTION: Notice of receipt of OMB Approval and Control Number for final rule.

SUMMARY: This document gives notice of receipt of approval by the Office of Management and Budget of the information and collection provisions of a final rule issued by the Commission in Docket No. RM83–9–000 (Order No. 353) on December 7, 1983, and a receipt of an OMB control number for these provisions. The final rule, which will be effective on February 21, 1984, exempts utilities that have shown that gathering the information required under 18 CFR Part 290 of the Commission's regulations is not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act (PURPA), including all small utilities with annual sales of electric energy, other than resale, less than 2 billion kilowatt-hours. The final rule also revised the Part 290 reporting requirements to reduce the burden of reporting for utlities that continue to gather and report under section 133 of PURPA.

EFFECTIVE DATE: As provided for in Order No. 353, the rule is effective on February 21, 1984.

FOR FURTHER INFORMATION CONTACT:
Michael A. Stosser, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033
Daniel G. Lewis, Office of Electric Power Regulations, Federal Energy Regulatory Commission, 825 North Capitol Street NE., 307 R.B. Washington, D.C. 20426, (202) 376–9227.

SUPPLEMENTARY INFORMATION: On December 7, 1983, the Commission issued a final rule [1] amending its regulations implementing section 133 of the Public Utility Regulatory Policies Act (PURPA).[2] In that order, the Commission exempted utilities that had shown that gathering the information required in 18 CFR Part 290 of the Commission's regulations was not likely to carry out the purposes of section 133 of PURPA. Because certain provisions of the final rule were subject to the Paperwork Reduction Act of 1980,[3] those provisions were submitted to the Office of Management and Budget (OMB) for review and for the assignment of a control number upon approval by OMB.

OMB has now notified the Commission that it has approved the provisions of the rule submitted to it for review. OMB has incorporated these changes within the same control number used to initially approve Part 290. Thus, these changes are now covered by OMB Control Number 1902–0042. As stated in the final rule, the effective date of the rule is February 21, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5506 Filed 3–1–84; 8:45 am]

BILLING CODE 6717–01–M

[1] Public Utility Regulatory Policies Act; Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service, 48 FR 55,438 (December 13, 1983) (Final Rule). *See also*, Exemptions From and Revisions to, Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail or Electric Service, 49 FR 4,938 (February 9, 1984) (Order on Reconsideration)

[2] 16 U.S.C. 2601–2605 (1982).

[3] 44 U.S.C. 3501–3520 (1982).

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Approval of Permanent Program Amendments From the State of Alabama Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Alabama permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). In addition, certain conditions of approval imposed by the Secretary of the Interior on Alabama are being modified and removed.

On August 29, 1983, the Alabama Surface Mining Commission (ASMC) transmitted to OSM a set of statutory and regulatory amendments intended, in part, to meet most of its conditions. The

conditions of approval relate to specific program requirements in the areas of permitting, performance standards, public participation, inspection and enforcement. The specific conditions being addressed by the State in this rulemaking are discussed in detail below under "**SUPPLEMENTARY INFORMATION.**"

Alabama's August 29, 1983 submittal also included a request for an extension of the deadline to meet other conditions of approval concerning sediment pond design, disposal of coal processing waste and spoil replacement, and other performance standards related to head-of-hollow and valley fills. However, since that date, Alabama has submittted a separate amendment package intended to meet the remaining conditions, making the extension request moot.

In addition, Alabama included other program amendments that are unrelated to the conditions of approval. Additional information about these amendments can be found below under "**SUPPLEMENTARY INFORMATION.**"

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to Alabama's program satisfy several of the conditions of approval, and that the additional modifications meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary is removing those conditions which have been met by the State and approving the additional program modifications found to be in accordance with SMCRA and no less effective than the Federal rules.

The Federal rules codifying Secretarial decisions concerning the Alabama permanent program are being amended to reflect these actions.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, Room 302, Birmingham, Alabama 34209, Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

Information regarding the general background on the Alabama program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22038 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

At the time of the Secretary's conditional approval, Alabama agreed to meet 13 conditions, many of which contained more than one element. Briefly, these conditions are:

1. Condition (a) requires Alabama to provide for the award of attorney and expert witness fees in accordance with Section 520(f) of SMCRA.

2. Condition (b)(1) requires Alabama to limit the definition of "extraction of coal as an incidential part" to only those areas included in the Federal definition.

3. Condition (b)(2) requires Alabama to redefine "Historic Lands" to include properly designated sites of religious, cultural and historic significance.

4. Condition (c) requires Alabama to change the term "unnecessarily disturbed" to "significantly disturbed" in order to provide sufficient protection for wildlife habitats.

5. Condition (d)(1) requires Alabama to provide that at the present time, the best technology currently available for sediment control is sedimentation ponds.

6. Condition (d)(2) requires Alabama to provide for sufficient sedimentation pond design criteria in accordance with 30 CFR 816.46(e)–(u) and 817.46(e)–(u).

7. Condition (d)(3) requires Alabama to limit impoundment slopes to not greater than 1v:2h.

8. Condition (d)(4) requires Alabama to provide for the inspection of all appropriate dams in accordance with 30 CFR 77.216–3.

9. Condition (d)(5) requires Alabama to provide for minimum sediment storage volume for sedimentation ponds.

10. Condition (e)(1) requires Alabama to prohibit the disposal of coal processing waste in head-of-hollow and valley fills.

11. Condition (e)(2) requires Alabama to provide for the placement of spoil in four foot horizontal lifts unless otherwise authorized by the regulatory authority.

12. Condition (e)(3) requires Alabama to provide criteria for slopes greater than 36%.

13. Condition (e)(4) requires Alabama to provide criteria and requirements for head-of-hollow and valley fills in a manner no less effective than 30 CFR 816.72 and 816.73.

14. Condition (f)(1) requires Alabama to limit blasting periods to an aggregate of four hours per day.

15. Condition (f)(2) requires Alabama to limit maximum peak particle velocity to one inch per second at the locations of certain structures and to adjust the scaled distance factor and accompanying tables accordingly.

16. Condition (g)(1) requires Alabama to provide that permit applications contain the identification of the current use of buildings and maps and plans.

17. Condition (g)(2) requires Alabama to provide that permit applications contain sufficient slope measurements to adequately represent the existing land surface configuration.

18. Condition (g)(3) requires Alabama to provide that permit applications contain information concerning equitable owners of record found in a standard title search of the standard chain of title.

19. Condition (h)(1) requires Alabama to provide mandatory authority for the regulatory authority to provide to the public information on acid and acid-forming materials in the coal seam.

20. Condition (h)(2) requires Alabama to grant to the regulatory authority, rather than the operator, the discretionary power to determine the confidentiality of information relative to exploratory activities, and containing specific criteria for such determination.

21. Condition (i) requires Alabama to provide that the applicant must demonstrate that the use of existing structures will not result in significant harm to the environment or impair public health or safety.

22. Condition (j) requires Alabama to provide for the permitting of coal processing plants and other support facilities including those not at or near the mine site.

23. Condition (k) requires Alabama to provide for the meeting of all three conditions in 30 CFR 785.18(d)(9) prior to the granting of a variance.

24. Condition (l) requires Alabama to grant authorized representatives the power to and require that the authorized representatives shall impose affirmative obligations on the operator in situations of imminent danger or significant environmental harm or when an operator fails to abate the violation in the most expeditious manner physically possible.

25. Condition (m) requires Alabama to make certain editorial changes to its rules as follows:

(m)(1): In the definition of Federal Lands, insert "interest" after "mineral."

(m)(2): In the definition of "Groundwater" substitute "in" in lieu of "below."

(m)(3): Add a scope section to Alabama rule Part 823 (now redesignated as 880–X–10G–.01).

(m)(4): Remove the word "following" from section 823.15 (now redesignated as 880–X–10G).

(m)(5): Add appropriate references in Sections 816.46(u) and 817.46(u) (now redesignated as 880–X–10G and 880–X–10D).

(m)(6): Correct the reference at section 778.13(d) (now redesignated as 880–X–8D).

II. Discussion of the Proposed Amendments

On August 29, 1983, the Alabama Surface Mining Commission (ASMC) transmitted a set of statutory and regulatory amendments intended, in part, to meet most of its conditions. See AL–387.

Alabama proposed changes to:

(1) Its statute at Section 3 of Act 83–744 (Section 9–16–95(f) of the Alabama Code) to meet condition (a);

(2) Rules 2A–.06(xx) to meet condition (b)(1); proposed changes to rule 2A–.06(www)(5) to meet condition (b)(2);

(3) Rule 10B–.06(A) to meet condition (c);

(4) Rules 10C .30 through .35 and 10–D .28 through .32 to meet conditions (f)(1) and (f)(2);

(5) Rules 8F–.08(d) and 8I–.07(d) to meet condition (g)(1);

(6) Rules 8F–.08(p) and 8I–.07(p) to meet condition (g)(2);

(7) Rules 8D–.05(1)(b) and 8G–.05(1)(b) to meet condition (g)(3);

(8) Rule 8K–.05(4)(a) to meet condition (h)(1);

(9) Rule 8C–.09 to meet condition (h)(2);

(10) Rules 8K–.12(1) (a) and (b) to meet condition (i);

(11) Rules 8J–.11 and Chapter 10J to meet condition (j);

(12) Rule 8J–.09(4)(i) to meet condition (k);

(13) Rules 11C–.02 (1)(b) and (2)(b) to meet condition (l);

(14) Rules 2A–.06(yy), 2A–.06(fff), 10G–.01, 10G–.07, and 8D–.05(4) to meet conditions (m)(1), (m)(2), (m)(3), (m)(4), and (m)(6), respectively.

In addition, Alabama requested an extension until December 1, 1983, to meet conditions (d), (e) and (m)(5). The rationale for this request was to enable the State to reflect recent changes made to the Federal rules in the areas of sedimentation ponds, other impoundments, and excess spoil. Subsequent to the State's extension request, ASMC submitted a proposed amendment on November 26, 1983, intended to meet these three remaining conditions and thereby rendering the extension request moot. On January 12, 1984, OSM published a proposed rule announcing receipt of the November 26, 1983 amendments (49 FR 1532). Final action on that rulemaking will be announced in a future **Federal Register** notice. However, with respect to condition (d)(2) concerning sedimentation ponds, recently changed Federal rules no longer contain certain standards covering the compaction of fill materials for sedimentation ponds. An inquiry from a member of the coal industry and the State of Alabama occurred subsequent to the August 29, 1983 amendment submitted by the State regarding whether such requirements must still be imposed by Alabama. The Secretary is responding to that inquiry in this rulemaking.

Also, Alabama proposed changes to other statutory and regulatory sections that are unrelated to the conditions. These provisions are:

1. Changes to Section 9–16–93(f) of Alabama's Code which removes jurisdiction for relief from the District Courts of the State and places jurisdiction in the Circuit Courts of the State.

2. Changes to Section 9–16–94(a) of Alabama's Code which provides for mandatory assessment of civil penalties upon the issuance of cessation orders under Section 9–16–96(a) to correctly read Section 9–16–93(a).

3. Changes to Section 9–16–99(2) of Alabama's Code which provides for waiver of certain requirements on surface mining areas affecting two acres or less.

4. Changes to Section 9–16–75 of Alabama's Code relating to rulemaking procedures by providing that provisions of the Alabama Surface Mining Control and Reclamation Act (ASMCRA) shall take precedence over the provisions of the Alabama Administrative Procedure Act, and providing for an emergency rulemaking procedure.

5. Changes to Section 9–16–79(1)(a) of Alabama's Code relating to hearings and appeals by providing that the provisions of ASMCRA shall take precedence over the Alabama Administrative Procedure Act as related to hearings and appeals.

6. Changes to Section 9–16–87(d) of Alabama's Code relating to exploration permits by providing for a reclamation bond.

7. Changes to Section 9–16–89(h) of Alabama's Code to clarify conditions for obtaining release of bonds.

8. Changes to Section 9–16–90(b)(10)(b.1.) of Alabama's Code to clarify performance standards regarding the control of suspended or settleable solids.

9. Changes to Section 9–16–92(a) of Alabama's Code which add a provision authorizing entry on private land in the enforcement and administration of ASMCRA.

10. Changes to Section 9–16–94(e) of Alabama's Code by making willfully and knowingly engaging in surface coal mining operations without a license or a permit a criminal act subject to criminal penalties, and further providing for the posting of a reclamation bond and for the reclamation of any land so affected by the violator.

11. Changes to Section 9–16–105(a) of Alabama's Code to provide for the conformity of Federal and State laws and regulations.

12. Changes to Alabama rule 880–X–2A–.06 to add the extraction of coal from coal refuse piles to Alabama's definition of surface coal mining operations.

13. Changes to Alabama rule 880–X–5A–.02 by adding a new paragraph (i) providing for hearings relating to any aspect or matter in the administration and enforcement of surface coal mining and reclamation activities which occurred under the Alabama Surface Mining Act of 1969 and ASMCRA to be included under the jurisdiction of Alabama's Division of Hearings and Appeals.

14. Changes to Alabama rule 880–X–5A–.17(1)(n) concerning powers of hearing officers to enable them to issue appropriate orders relating to Service of Process or any other service of the regulatory authority or the Division of Hearings and Appeals.

15. Changes to Alabama rule 880–X–5A–.36 to provide that the Division of Hearings and Appeals shall be subject to the Alabama Rules of Civil Procedures.

16. Changes to Alabama rule 880–X–5A–.18 to prohibit ex parte contacts between representatives of the parties and the hearing officer.

17. Changes to Alabama rules 880–X–8E–.06(2) and 8H–.06(2)(a) to require that the geology description included in a permit application be prepared by a professional geologist or a qualified registered professional engineer.

18. Changes to Alabama rules 880–X–8E–.06(5)(a) and 8H–.06(5)(a) to require that the determination of hydrologic consequences included in a permit application be prepared by a hydrologist.

19. Changes to Alabama rule 880–X–8F–.07(1)(p) prescribing requirements for the blasting plan included in a permit application.

20. Changes to Alabama rules 880–X–8F–.08(2) and 8I–.07(2) specifying the requirements for permit maps. Under the proposed change, maximum map size shall be 30 x 42 inches, at a scale of no more than 1 inch = 500 feet. Other scales could be approved on a case-by-case basis by the State regulatory authority.

21. Changes to Alabama rules 880–X–8F–.08(2)(f) and 8I–.07(2)(f) concerning map legends to require that all symbols and representations including each bond

increment and acreage must be clearly identified.

22. Changes to Alabama rules 880–X–8F–.09(2)(e) and 8I–.08(2)(e) concerning reclamation plan requirements to amend the reference to Alabama's revegetation rules.

23. Changes to Alabama rule 880–X–8G–.05(4) concerning permit application requirements for the identification of current or previous coal mining permits to clarify the reference to other provisions of the Alabama rules.

24. Changes to Alabama rule 880–X–8I–.09 concerning underground development waste to amend the reference to the Alabama rules governing structures.

25. Changes to Alabama rules 880–X–8N–.07–.09 and .13 concerning the small operator assistance program.

26. A new rule 880–X– 10A–.03 entitled "Authorization to Mine" which provides that a copy of all valid permits and other authorizations to operate the mine required by State law shall be available for inspection at or near the mine site.

27. Changes to rules 880–X– 10C–.64(3) and 10D–.62(3) concerning temporary cessation of operations to clarify that interruption of operations due to events of force majeure, including strikes, shall not be considered a temporary cessation.

On September 28, 1983, OSM published a notice in the **Federal Register** announcing receipt of the amendments and inviting public comment on whether the proposed modifications addressed the respective conditions, and whether the proposed amendments were in accordance with SMCRA and met the requirements of the Federal rules. *See* 48 FR 44233–44236. The public comment period ended on October 28, 1983. A public hearing scheduled for October 24, 1983, was not held because no one expressed a desire to present testimony.

During this period, a review of Alabama's proposed amendments by OSM identified several concerns relating to records of blasting operations and Alabama's small operator assistance program. After discussions between ASMC and OSM, the State submitted additional modifications to the proposed amendments on December 22, 1983.

On January 19, 1984, OSM published a notice in the **Federal Register** reopening and extending the public comment period on Alabama's proposed amendments as modified on December 22, 1983. *See* 49 FR 2268). That comment period ended on February 3, 1984.

On November 30, 1983, the Administrator of the Environmental Protection Agency gave written concurrence on the August 29, 1983, amendments to the Alabama program.

III. Secretary's Findings

The Secretary finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Alabama on August 29, 1983, meet the requirements of SMCRA and 30 CFR Chapter VII, except as otherwise noted below.

A. Findings on Conditions

1. *Condition (a).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, did not specifically provide for reasonable attorney and expert witness fees as required by Section 520(f) of SMCRA (Finding 1.2, 47 FR 22031). The Secretary now finds that Alabama has amended its code at Section 9–16–95(f) to provide for the award of attorney and expert witness fees to the prevailing party. The Secretary finds that the State's revised code is now in accordance with Section 520(f) of SMCRA.

2. *Condition (b)(1).* The Secretary found that in the Alabama program conditionally approved on May 20, 1982, the definition of "Extraction of Coal as an Incidental Part" was less effective than the Federal definition under 30 CFR 707.5 (Finding 12.1, 47 FR 22032). The Secretary now finds that Alabama has amended its rules at 880–X–2A–.06(xx) and that the amended Alabama provision is now no less effective than 30 CFR 707.5

3. *Condition (b)(2).* The Secretary found that in the Alabama program conditionally approved on May 20, 1982, the definition of "Historic Lands" did not specifically delineate sites of religious, cultural or historical significance (Finding 12.5, 47 FR 22032). The Secretary now finds that Alabama has amended its rules at 880–X–2A–.06(www)(5) to include sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending. The amended Alabama provision is now no less effective than 30 CFR 762.5.

4. *Condition (c).* The Secretary found that in the Alabama program conditionally approved on May 20, 1982, the State's rules did not provide sufficient protection for wildlife habitats because the State used the term "unnecessarily disturbed" instead of "significantly disturbed" with respect to the disturbance of wildlife habitats during coal exploration (Finding 13.1, 47 FR 22032). The Secretary now finds that Alabama rule 880–X–10B–.06(a) has been amended to provide that habitats shall not be significantly disturbed during coal exploration. The amended Alabama provision is now no less effective than 30 CFR 815.15.

5. *Condition (f)(1).* Condition (f)(1) required Alabama to limit blasting periods to an aggregate of four hours per day. This condition, discussed in Finding 13.19 (47 FR 22035), was based on the requirements of 30 CFR 816.64(b)(2)(ii). That Federal rule was amended on March 8, 1983 (48 FR 9807), at which time the four hour aggregate provision was removed. Therefore, condition (f)(1) is moot. Alabama has adopted new blasting rules to reflect changes made to the Federal rules. The Secretary's findings on the State's amended blasting rules appear below under the findings on amendments unrelated to conditions.

6. *Condition (f)(2).* Condition (f)(2) required Alabama to amend its blasting rules to be no less effective than the existing Federal rules concerning maximum peak particle velocity limits (Finding 13.20, 47 FR 22035). Since that condition was imposed, the Federal provisions have been amended. *See* 48 FR 9788, March 8, 1983. Therefore, condition (f)(2) is moot. Alabama has adopted new blasting rules to reflect changes made to the Federal rules. The Secretary's findings on the State's amended blasting rules appear below under the findings on amendments unrelated to conditions.

7. *Condition (g)(1).* The Secretary found that in the Alabama program conditionally approved on May 20, 1982, the State's rules did not require the identification of the current use of buildings on maps and plans in permit applications (Finding 14.2, 47 FR 22035). The Secretary now finds that Alabama has amended its rules at 880–X–8F–.08(1)(d) and 880–X–8I–.07(1)(d) to require this information and that the amended Alabama rules are now no less effective than 30 CFR 779.24(d) and 783.24(d).

8. *Condition (g)(2).* The Secretary found that in the Alabama program conditionally approved on May 20, 1982, the State's rules did not require either sufficient slope measurements to adequately represent the existing land surface configurations or criteria for such measurements (Finding 14.3, 47 FR 22035). The Secretary now finds that Alabama has amended its rules at 880–X–8F–.08(p) and 880–X–8I–.07(p) to require slope measurements. The Secretary notes that Alabama rule 880–X–8I–.07(p) uses the term "permit area" instead of the term "area affected by surface operations and facilities" used in 30 CFR 783.25(k), however, since the area affected by surface operations and

facilities falls within the permit area, the Alabama rule is acceptable. Therefore, the amended Alabama rules are now no less effective than 30 CFR 779.25(k) and 783.25(k).

9. *Condition (g)(3).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, did not require that information concerning equitable owners of record found in a standard title search be included in permit applications (Finding 14.6, 47 FR 22036). The Secretary now finds that Alabama has amended its rules at 880–X–8D–.05(1)(b) and 880–X–8G–.05(1)(b) and that the amended Alabama rules are now no less effective than 30 CFR 778.12(a)(2) and 782.13(a)(2).

10. *Condition (h)(1).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, improperly allowed permit information pertaining to acid and acid-forming materials in the coal seam to be excluded from public disclosure (Finding 14.8, 47 FR 22036). Alabama has amended its rules at 880–X–8K–.05(4)(a) to provide for the disclosure of information about the coal source relating to toxic or acid-forming materials. Subsequent to the Secretary's approval of the Alabama program, the Federal rules referenced in the Secretary's finding related to this condition were amended. The Secretary now finds that the amended Alabama rule is no less effective than 30 CFR 773.13(d)(3)(i) which was promulgated on September 28, 1983 (48 FR 44394).

11. *Condition (h)(2).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, contained provisions which allowed operators rather than the regulatory authority to determine what exploratory information shall be regarded as confidential. The Alabama rules also omitted specific guidelines for determining confidentiality of exploratory information (Finding 15.1, 47 FR 22037). The Secretary now finds that Alabama has amended its rules at 880–X–8C–.09 to make the regulatory authority responsible for determining confidentiality based on specific criteria. The amended Alabama rule is now no less effective than 30 CFR 776.17.

12. *Condition (i).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, did not require the applicant for a permit to demonstrate that the use of existing structures will not result in significant harm to the environment or impair public health or safety (Finding 14.10, 47 FR 22036–22037). Alabama has amended its rules at 880–X–8K–.12(1) (a) and (b) to require that before an existing structure can be used, the regulatory authority must find, in writing, that no significant harm to the environment or public health or safety will result. Subsequent to the Secretary's approval of the Alabama program, the Federal rules referenced in the Secretary's finding have been amended. The Secretary now finds that the amended Alabama rules are no less effective than 30 CFR 773.17(f) (promulgated September 28, 1983, 48 FR 44395) which provides that compliance, modification, or abandonment of existing structures be a condition of each permit issued by the regulatory authority.

13. *Condition (j).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, required the permitting of coal processing plants and other support facilities only if the plants or facilities were located at or near the mine site (Finding 14.12, 47 FR 22037). The Federal provisions at 30 CFR 785.21 require the permitting of all plants and facilities regardless of where they are located. Alabama has amended its rules at 880–X–8J–.11 and 880–X–10J to provide for the regulation of coal processing plants and support facilities that are not located within the permit area of a mine. The Secretary now finds that the amended Alabama rules are no less effective than the provisions of 30 CFR 785.21. The Secretary notes that the Federal rule at 30 CFR 785.21 (b) and (c) requires operators of coal preparation plants to comply with the special performance standards of 30 CFR 827 which were amended subsequent to the Secretary's approval of Alabama's program (48 FR 20392, May 5, 1983). The Alabama counterparts to the Federal rules do not contain all of the Federal requirements including the provisions of 30 CFR 827.12(i) concerning the cessation of coal processing operations for both temporary or permanent facilities. The Secretary, through OSM, is presently in the process of working with the States to bring all State regulatory programs into compliance with all revised Federal rules contained in 30 CFR Chapter VII and will work with Alabama to revise its special performance standards for coal processing operations found at 880–X–10J under a separate schedule and rulemaking action.

14. *Condition (k).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, did not clearly require the meeting of three specific conditions prior to the granting of a variance to contemporaneous reclamation requirements (Finding 14.13, 47 FR 22037). These specific conditions concern: (1) Delineation of the area authorized for variance, (2) identifying substitute requirements, and (3) providing a detailed schedule for compliance. The Secretary now finds that Alabama has amended its rules at 880–X–8J–.09(4)(i) to require these specific conditions to be met. The amended Alabama rules are now no less effective than 30 CFR 785.18(c)(9), as promulgated on June 1, 1983 (47 FR 24638).

15. *Condition (l).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, did not grant authorized representatives of the state regulatory authority the power to impose, or require the imposition of affirmative obligations on the operator in situations of imminent danger or significant environmental harm or when the operator fails to abate the violation in the most expeditious manner physically possible (Finding 17.1, 47 FR 22038). Alabama has amended its rules at 880–X–11C–.02 (1)(b) and (2)(b) to require that authorized representatives of the state regulatory authority shall impose affirmative obligations when a cessation order is issued that will not result in the abatement of either an imminent harm or a significant environmental harm in the most expeditious manner physically possible. The Secretary finds the amended Alabama rule to be no less effective than 30 CFR 843.11.

16. *Conditions (m) (1)–(4) and (6).* The Secretary found that the Alabama program conditionally approved on May 20, 1982, contained several typographical errors and minor omissions that could have a substantive effect on the proper interpretation of Alabama's rules. *See* Findings 12.2 (47 FR 22032), 12.3 (47 FR 22032), 13.3 (47 FR 22033), 13.5 (47 FR 22033), and 14.7 (47 FR 22036). Alabama has amended its rules to meet the following conditions as set forth below.

(m)(1) The definition of "Federal lands" has been amended by adding the word "interest." Alabama rule 880–X–2A–.06(yy) is now no less effective than the definition of "Federal lands" found in 30 CFR 700.5.

(m)(2) The definition of "groundwater" has been amended by substituting the word "in" for the word "below." Alabama rule 880–X–2A–.06(fff) is now no less effective than the definition of "groundwater" found in 30 CFR 701.5.

(m)(3) Alabama has added a slope section to its rules concerning special performance standards for prime farmland. Alabama rule 880–X–10G–.01 is now no less effective than 30 CFR 823.1.

(m)(4) Alabama has removed the word "following" from its rules establishing requirements for revegetation success on prime farmland, and has clarified the rule to indicate exactly which requirements are applicable. Alabama rule 880–X–10G–.07(a) is now no less effective than 30 CFR 823.15.

(m)(6) Alabama has amended its rules at 880–X–8D–.05(4) which concern information requirement for the identification of interests in permit applications to correct a cross-reference to other Alabama rules. The amended Alabama rule is no less effective than 30 CFR 778.13(d) (as promulgated on September 28, 1983, 48 FR 44399).

B. Amendments Unrelated to Conditions of Approval

Statutory Amendments

1. Alabama has amended section 9–16–93(f) of its code to place jurisdiction for civil actions for relief in the circuit courts, rather than in the State's district courts. The Secretary finds that the amended statutory provision is in accordance with section 521(c) of SMCRA.

2. Alabama has amended section 9–16–94(a) of its statute to correct the reference to the state statutory section concerning cessation orders. The corrected reference now refers to section 9–16–93 of the Alabama code. The Secretary finds the amended statutory provision in accordance with SMCRA.

3. Alabama has amended section 9–16–75 of its statute concering State rulemaking procedures. The amended statutory provision specifies that ASMC's rulemaking procedures set forth in the Alabama code will take precedence over the Alabama Administrative Procedure Act and clarifies the requirements concerning publication of newspaper notices of proposed rulemaking and public hearing requirements. The amended rule also prescribes emergency rulemaking authority for the ASMC and requires the filing of rulemaking documents at certain State offices. The Secretary finds the amendments to section 9–16–75 of Alabama's statute to be in accordance with SMCRA and no less effective than 30 CFR Chapter VII.

4. Alabama has amended section 9–16–79(1)(a) of its statute to provide that Alabama's statutory procedures for hearing and appeals shall take precedence over the Alabama Administrative Procedure Act. The Secretary finds this amendment to be in accordance with SMCRA.

5. Alabama has amended section 9–16–87(d) of its statute relating to exploration permits by providing that ASMC's written approval may be conditioned upon specific performance standards, reclamation standards, and posting of a reclamation bond. While SMCRA does not specify these requirements, the Secretary finds these amendments to the Alabama code not to be in conflict with any provisions of SMCRA or 30 CFR Chapter VII and, therefore, these amendments are approvable under the provisions of section 505(b) of SMCRA.

6. Alabama has added a new section 9–16–92(a)(4) to its statute authorizing State officials to enter upon all lands in the State in performing any duties under State law, provided that in so doing, no damage is done to private property. The Secretary finds the State's new right of entry provision to be in accordance with section 517(b)(3) of SMCRA.

7. Alabama has amended section 9–16–94(e) of its code to provide a penalty of $10,000 fine per day and/or imprisonment for up to one year for any person convicted of willfully and knowingly engaging in surface coal mining operations without a license and permit. In addition, such a person may also be required to post a bond and to reclaim the affected land. With respect to the $10,000 fine per day and one year imprisonment penalties, the Secretary finds that the amended provisions are in accordance with section 518(g) of SMCRA. While SMCRA does not prescribe the requirements of the new Alabama provision providing for the posting of a bond and the reclaiming of the disturbed land in addition to the civil penalty, it does not prohibit States from doing so. Section 505(b) of SMCRA provides that additional State requirements not covered by SMCRA shall not be construed to be inconsistent with SMCRA. Therefore, the Secretary finds that the bond and reclamation requirements of amended section 9–16–94(e) are approvable because they are not in conflict with the provisions of SMCRA.

8. Alabama has amended section 9–16–89(h)(2) and 9–16–90(b)(10)(b.1) of its statute concerning bond release. The revised language prohibits bond release on lands which are contributing settleable solids to streamflow or runoff outside the permit area in excess of the requirements set by applicable State or Federal law or regulations. The Secretary finds these requirements in accordance with section 515(b)(10)(B)(i) of SMCRA and no less effective than 30 CFR 816.46(c) and 817.46(c) as promulgated on September 26, 1983 (48 FR 44051–44052).

9. Alabama has amended section 9–16–105 of its statute which provides for the conformity of Federal and state laws and rules. The amended requirements provide that in the event Federal rules are amended to be less stringent, ASMC shall, through its rulemaking procedures, adopt the new Federal requirements. The Secretary finds the amended Alabama provision to be in accordance with section 505 of SMCRA.

Regulatory Amendments

1. Alabama has amended its definition of surface coal mining operations to include extraction of coal from coal refuse piles. The Secretary finds that amended Alabama rule 880–X–2A–.06(kkkkkk)(1) is no less effective than the definition of surface coal mining operations found under 30 CFR 700.5.

2. Alabama has amended several rules pertaining to its Division of Hearings and Appeals (DHA). A new rule 880–X–5A–.02(1)(i) has been added that authorizes DHA to exercise appellate review on matters pertaining to hearings relating to any aspect or matter in the administration or enforcement of surface coal mining and reclamation activities which occurred under the Alabama Surface Mining Act of 1969 and the Alabama Surface Mining Reclamation Act of 1975. Alabama has added a new section (n) to rule 880–X–5A–.17(1) granting hearing officers the power to issue appropriate orders relating to Service of Process or any other service of the regulatory authority or DHA. Alabama has also clarified rule 880–X–5A–.18 to prohibit ex parte contacts between representatives of the parties and the hearing officer. Further, Alabama has added a new procedure rule found at 880–X–5A–.36. The new rule states that DHA shall be subject to the Alabama Rules of Civil Procedure except as those rules may conflict with those rules relating specifically to DHA found at 880–X–5A *et seq.* The Secretary finds that these amendments to Alabama's rules contain procedural requirements that are similar to those provided in sections 518, 521 and 525 of SMCRA and that the amended Alabama rules are consistent with 30 CFR Parts 843 and 845 and 43 CFR Part 4.

3. Alabama has amended rules 880–X–8E–.06(2) and 880–X–8H–.06(2) concerning geology information requirements for permit applications. Under the revised rules, the required geology description must be prepared by a professional geologist or a qualified registered professional engineer. Also, Alabama has amended rules 880–X–8E–.06(5)(a) and 880–X–8H–.06(5)(a) to require that the determination of probable hydrologic consequences portion of a permit application be

prepared by a hydrologist. The Secretary finds Alabama's amended rules no less effective than 30 CFR 777.13(b) as promulgated on September 28, 1983 (48 FR 44398). That Federal rule provides that technical analyses shall be planned by or under the direction of a professional qualified in the subject to be analyzed.

4. Alabama has added rules 880–X–8F–.07 which requires applications for surface coal mining permits to include a blasting plan. The Secretary finds that Alabama's rule establishes blasting plan requirements that are no less effective than the provisions of 30 CFR 780.13.

5. Alabama has amended rules 880–X–8F–.08(2) and 880–X–8I–.07(2) which specify requirements for permit maps. The amended rules increase the maximum overall sheet size from 30 by 36 inches to 30 by 42 inches. In addition, Section (2)(b) of both rules states that the map scale shall be no more than 1 inch equal to 500 feet. However, that section also provides that other scales may be approved on a case by case basis by the state regulatory authority. The Federal rules at 30 CFR 777.14(a) provide that maps of the permit area shall be at a scale of 1 inch equal to 6,000 inches (500 feet) or larger and that maps of the adjacent area shall be of a scale determined by the regulatory authority, but in no event smaller than 1 inch equal to 24,000 inches (2,000 feet). The State, in its preamble supporting amended rule 880–X–8F–.08(2), maintains that from past experience, certain situations such as extensive haul road networks require smaller scales than even 1 inch equal to 1,000 feet. The Secretary has carefully considered the State's amended provision and finds acceptable the Alabama provision allowing approval by the regulatory authority of other scales on a case by case basis, as long as the State does not exceed the Federal limits. The Secretary, through OSM will monitor Alabama's use of other maps scales and will take steps to enforce the Federal requirements in the event Alabama is found to exceed them. Based upon this interpretation and current policy, the Secretary finds Alabama rules 880–X–8F–.08 and 880–X–8I–.07(2) to be no less effective than 30 CFR 777.14(a).

6. Alabama has amended rules 880–X–8F–.08(2)(f) and 880–X–8I–.07(2)(f) to require that map legends clearly and readily identify all symbols and representations on the map including each bond increment, its acreage (itemized as actual mining area and incidental facilities) to the nearest whole area. The Secretary finds the amended Alabama rules to contain requirements that are no less effective than those prescribed by 30 CFR 777.14.

7. Alabama has amended its blasting rules 880–X–10C–.03 and .30–.35, and 880–X–10D– .03 and .28–.32, to meet the revised requirements of the Federal rules governing blasting found at 30 CFR 816.61–68 and 817.61–68 (48 FR 9788, March 8, 1983). The Secretary finds that the Alabama program contains provisions for blasting standards, pre-blast surveys, airblast, ground vibration and flyrock, monitoring and blast design that are no less effective than those provided by the Federal rules except in one instance.

In preliminary comments OSM provided to Alabama on a draft package of amended State rules, OSM alerted the State that the language specifying that an operator would have to be requested to keep a copy of blasting records at the minesite was inconsistent with the Federal rules. The State amended rule 880–X–10C–.35 to clarify that such records must be maintained at the mine site and upon request be made available to the public and regulatory authority. Alabama did not made a similar change to rule 880–X–10D–.32, the underground mining rule, in its August 29, 1983 amendment package, but subsequently modified the rule on December 22, 1983. The Secretary finds that the amended Alabama rules are now no less effective than 30 CFR 816.68 and 817.68.

The Alabama rules also contain one provision not found in the Federal rules. Alabama rules 880–X–10C–.34–4(e)(2) and 880–X–10D–.31–4(e)(2) provide an additional means by which the public may request the State regulatory authority to decrease the maximum peak particle velocity. Under the State's scheme, either a municipality or fifteen citizens of a municipality who are being affected by blasting operations may request the regulatory authority to solicit and consider public comments in determining the necessity of more stringent standards. The regulatory authority may then require the blaster to decrease the maximum peak particle velocity of ground motion to as low as 0.5 inch per second, or to require seismographic monitoring at the site of the complaint nearest the blast. All actions or inactions on the part of the regulatory authority under this scheme would be subject to review by the Commissioner of the Alabama Surface Mining Commission. The Secretary has carefully reviewed the Alabama provision. Neither SMCRA or the Federal rules prescribe public participation requirements for States to use in determining whether more stringent standards for maximum peak particle velocity need be imposed on an operator. Therefore, the Secretary finds that Alabama rules 880–X–10C– .34–4(e)(2) and 880–X–10D–.31–4(e)(2) are approvable under the provisions of section 505(b) of SMCRA, because they do not conflict with the requirements of SMCRA or 30 CFR Chapter VII.

8. Alabama has amended its rules 880–X–10C–.64(3) and 880–X–10D–.62(3) both of which pertain to temporary cessation of operations. The amended Alabama rules provide that the interruption of operations due to events of force majeure, including labor strikes, shall not be considered a temporary cessation. The previous Alabama provisions had referred to labor disputes. The Secretary's finding 13.11 on the approval of Alabama's program (47 FR 22034) stated that the term "labor disputes" was too broad. The Secretary now finds that the amended Alabama rules which use the term "labor strikes" are no less effective than 30 CFR 816.131 and 817.131.

9. Alabama has amended its rules governing the implementations of the State's small operator assistance program (SOAP). In making the following findings on Alabama's amended SOAP rules, the Secretary is relying upon the revised Federal rules governing SOAP found at 30 CFR 795 (48 FR 2266, January 18, 1983).

a. Alabama has amended rule 880–X–8N–.07(a) to require that an applicant for SOAP assistance possess a valid State license and apply for a permit. The Federal rules contain no counterpart requiring a State license. Federal rule 30 CFR 795.6 provides that an applicant is eligible for SOAP assistance if the applicant intends to apply for a permit, but the Federal rules do not require an applicant to actually apply for a permit at the same time SOAP assistance is requested. Thus, there may be an additional burden placed by the State on applicants for SOAP assistance not found under the Federal rules. In considering the State's amendment, the Secretary relies on the State's preamble to its final rules governing SOAP. ASMC has indicated that under its SOAP program, the potential SOAP applicant will file a request for assistance along with an application for a permit. The permit application will not have to include the geology and hydrology information for which SOAP assistance is requested nor will it have to include any information which is dependent upon data to be furnished by the SOAP. Once the application is filed and the applicant is approved for assistance, ASMC will contract to have the data collected. The data would then be

included in the application once the study is completed.

The Secretary has considered the merits of Alabama's revised rule and has decided to approve the State's provision with the understanding that it not place significant burdens on applicants for SOAP assistance. The Secretary views Alabama's requirement that a permit application be submitted concurrently with the application for SOAP assistance as a means for the State to ensure that applicants are serious in their intent and thereby reduce the incidents of reimbursements due to an applicant's decision not to apply for a permit after SOAP assistance was provided. The Secretary, through OSM, will monitor ASMC's implementation of Alabama's SOAP and will take additional steps to ensure compliance with the Federal requirements in the event OSM determines that the State's requirements are deterring operator participation under the SOAP.

b. Alabama has amended rules 880–X–8N–.07(c) and 880–X–8N–.13(d) to clarify that tonnage limits apply to any 12 month period during the term of the permit, rather than for each year. The Secretary finds the amended Alabama provisions no less effective than 30 CFR 795.6(a)(2) and 795.12(a)(2).

c. Alabama has amended rule 880–X–8N–.08 pertaining to filing requirements for assistance. The Secretary finds that the amended State provision, coupled with Alabama's existing rules governing contents of permit applications, specify requirements for SOAP applications that are no less effective than those specified under 30 CFR 795.7.

d. Alabama has amended rule 880–X–8N–.09 which sets forth the requirements for application approval and notice. The Secretary finds the amended Alabama rule to be no less effective than 30 CFR 795.8.

e. The Secretary, through OSM, was given an opportunity to provide Alabama with preliminary comments on its amended SOAP rules prior to the State's submittal of a formal State program amendment. The Secretary, through OSM, notified the State of several cases where the proposed changes to Alabama's SOAP rules would not be approvable. The first instance concerned rule 880–X–8N–.07 and 880–X–8N–.09(1)(a) which establish the basis for determining the total coal production that would be attributable to an applicant for purposes of ensuring that the 100,000 ton limit would not be exceeded. The Federal rules at 30 CFR 795.6(a)(2)(iv) require that all coal produced by operations owned by members of the applicant's family and the applicant's relatives be attributed to the applicant unless it is established that there is no direct or indirect business relationship between or among them. Alabama's proposed amendment of August 29, 1983, did not contain a similar provision. Additionally, 30 CFR 795.6(a)(4) states that an applicant is eligible for assistance, in part, as long as the applicant does not organize or reorganize his or her company solely for the purpose of obtaining assistance under SOAP. The Alabama rules did not contain this requirement. Furthermore, 30 CFR 795.12(a)(3) requires the applicant to reimburse the regulatory authority for the cost of laboratory services performed under SOAP in situations where the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the 100,000 ton annual production limit during any consecutive 12-month period of the remaining term of the permit. Under 30 CFR 795.12(a)(3), the applicant and its successor are jointly and severally obligated to reimburse the regulatory authority in such situations. Alabama's rules omitted these liability requirements.

On December 22, 1983, Alabama submitted modifications to its August 29, 1983 proposed amendment which address OSM's concerns through changes to rules 880–X–8N– .07 (c)(5), (d), and .13.

Therefore, the Secretary finds Alabama's modified SOAP rules to be no less effective than the requirements of 30 CFR 795.6(a)(2)(iv), 195.6(a)(4) and 795.12(a)(3).

C. Non-Substantive Corrections to Alabama's Statute and Regulations

Alabama has revised certain parts of its statute and rules to make non-substantive, primarily typographical changes. The Secretary finds the corrections consistent with SMCRA and 30 CFR Chapter VII.

D. Additional Findings

The Secretary finds that in the case of condition (d)(2) concerning performance standards for sedimentation ponds, the Federal requirements no longer specify compaction standards for fill materials for sedimentation ponds that were previously required by 30 CFR 816.46(p) and 817.46(p). *See* the amended Federal rules at 30 CFR 816.46 and 817.46 promulgated on September 25, 1983 (48 FR 43956–44052). This finding is being made in response to a State and industry inquiry which occurred subsequent to the State's August 29, 1983, extension request. Correspondence and memoranda concerning this inquiry may be found in the administrative record.

IV. Public Comments

The responses to public comments received are set forth below.

1. The Fish and Wildlife Service suggested that Alabama make further changes to rule 880–X–8F–.08 to require permit maps to include the delineation of national forests and land areas containing riparian vegetation, other wetland areas and habitats of unusually high value for fish and wildlife. The Secretary has considered the merits of the suggested additional information but will not require Alabama to include the information at this time. The Secretary finds Alabama's permit map requirements to be no less effective than the provisions of 30 CFR 779.24 and 784.23.

2. Acknowledgments pertaining to the Alabama amendments being acted upon today were received from the following government agencies.

Department of Labor—Mine Safety and Health Administration.

Department of the Army—Corps of Engineers.

The disclosure of government agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Secretary's Decision

The Secretary, based on the above findings, is approving the August 29, 1983, amendments to the Alabama program and is removing conditions (a), (b), (c), (f), (g), (h), (i), (j), (k), (l), and (m) (1)–(4) and (6).

In addition, as discussed under Finding D, part of condition (d)(2) concerning compaction standards for sediment ponds is no longer applicable because such requirements were deleted when recent changes were made to the Federal rules. The Secretary is amending condition (d)(2) to no longer require Alabama to meet the provisions of superseded rules 30 CFR 816.46(p) and 817.46(p).

The Secretary has, based upon the above findings, decided to approve all of the other changes to Alabama's statute and rules that are unrelated to conditions of approval.

The Secretary is amending Part 901 of 30 CFR Chapter VII to reflect approval of the above State program modifications.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 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 Sections 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 will 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 will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will 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 901

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

Dated: February 27, 1984.

Garrey E. Carruthers,

Assistant Secretary for Land and Minerals Management.

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

PART 901—ALABAMA

§ 901.10 [Amended]

1. 30 CFR 901.10 is hereby amended by striking the address shown as "Office of Surface Mining, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, TN 37902" and substituting the following address "Office of Surface Mining, Birmingham Field Office, 228 West Valley Avenue, Room 302, Birmingham, AL 34209."

2. 30 CFR 901.11 is amended by removing and reserving paragraphs (a), (b), (c), (f), (g), (h), (i), (j), (k), (l), (m)(1) through (m)(4) and (m)(6).

3. 30 CFR 901.11 is amended by revising paragraph (d)(2) as follows:

§ 901.11 Conditions of State regulatory program approval.

* * * * *

(d) * * *

(2) Copies of promulgated regulations providing for sufficient sedimentation pond design criteria in accordance with 30 CFR 816.46 and 817.46 and referencing these criteria in appropriate sections.

4. 30 CFR 901.15 is amended by adding a new paragraph (b) as follows:

§ 901.15 Approval of regulatory program amendments.

* * * * *

(b) The following amendments were approved effective *[Insert date of publication].*

(1) Alabama revised statute and regulations, submitted on August 29, 1983, as modified on December 22, 1983, to meet conditions (a), (b), (c), (f), (g), (h), (i), (j), (k), (l) and (m) (1)–(4) and (6). These revisions were made to Section 9–16–95(f) of Alabama's code and the following sections of Alabama rules: 880–X–2A–.06(xx), 880–X–2A–.06(www)(5), 880–X–10B–.06(a), 880–X–8F–.08(1)(d), 880–X–8I–.07(1)(d), 880–X–8F–.08(p), 880–X–8I–.07(p), 880–X–8D–.05(1)(b), 880–X–8G–.05(1)(b), 880–X–8K–.05(4)(a), 880–X–8C–.09, 880–X–8K–.12(1)(a) and (b), 880–X–8J–.11, 880–X–10J, 880–X–8J–.09(4)(i), 880–X–11C–.02 (1)(b) and (2)(b), 880–X–2A–.06(yy), 880–X–2A–.06(fff), 880–X–10G–.01, 880–X–10G–.07(a), and 880–X–8D–.05(4).

(2) Other Alabama revised statutory sections submitted on August 29, 1983, to revise sections 9–16–93(f), 9–16–94(a), 9–16–75, 9–16–79(1)(a), 9–16–87(d), 9–16–92(a)(4), 9–16–94(e), 9–16–89(h)(2), 9–16–90(b)(10)(b.1), 9–16–99(2) and 9–16–105.

(3) Other Alabama revised regulatory sections, submitted on August 29, 1983, to revise sections 880–X–2A–.06(kkkkkk)(1), 880–X–5A–.02(1)(i), 880–X–5A–.17(1)(n), 880–X–5A–.18, 880–X–5A–.36, 880–X–8E–.06(2), 880–X–8H–.06(2), 880–X–8E–.06(5)(a), 880–X–8H–.06(5)(a), 880–X–8F–.07, 880–X–8F–.08(2), 880–X–8I–.07(2), 880–X–8F–.09(2)(e), 880–X–8I–.08(2)(e), 880–X–8G–.05(4), 880–X–8I–.09, 880–X–10A–.03, 880–X–10C–.03, 880–X–10C–.30–35, 880–X–10D–.03, 880–X–10D–.28–32, 880–X–10C–.34–4(e)(2), 880–X–10D–.31–4(e)(2), 880–X–10C–.64(3), 880–X–10D–.62(3), 880–X–8N–.07, 880–X–8N–.07(c), 880–X–8N–.13(d), 880–X–8N–.08, and 880–X–8N–.09.

[FR Doc. 84–5753 Filed 3–1–84; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3–1

Debarment, Suspension, and Ineligibility

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is amending 41 CFR 3–1.6, Debarred, Suspended, and Ineligible Bidders, to implement those sections of Federal Procurement Regulations (FPR) Temporary Regulation 65, Debarment, Suspension and Ineligibility of Government Contractors, which require agency implementation and to modify the definition of "debarring official" and "suspending official" in 41 CFR 1–1.602, Definitions.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Frederick J. Brennan, Division of Procurement Policy, (202–245–6154).

SUPPLEMENTARY INFORMATION: On November 10, 1983 the proposed rule concerning debarment, suspension and ineligibility was published in the **Federal Register** (48 FR 51648) and invited public comment by December 12, 1983. No comments were received. Therefore, the Department considered the regulation acceptable as written, except for minor typographical corrections and the restructuring of §§ 3–1.605–3 and 3–1.606–3 to allow for the reduction of implementing regulations.

This rule will not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, et seq.).

This is not a major rule as defined by Executive Order 12291 of February 17, 1981.

The provisions of this amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 41 CFR Chapter 3

Government procurement.

Title 41 CFR Chapter 3 is amended as set forth below.

Dated: February 24, 1984.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Under Part 3–1, General, Subpart 3–1.6, Debarred, Suspended, and Ineligible Bidders, is amended as set forth below.

Part 3–1 is amended by revising Subpart 3–1.6 to read as follows:

PART 3–1—GENERAL

* * * * *

Subpart 3–1.6—Debarment, Suspension, and Ineligibility

Sec.

3–1.600 Scope of subpart.
3–1.602 Definitions.

Sec.

3–1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors, and agency records.
3–1.603–1 Consolidated list of debarred, suspended, and ineligible contractors.
3–1.603–2 Agency records.
3–1.604 Treatment to be accorded listed contractors.
3–1.604–1 General.
3–1.605 Debarment.
3–1.605–1 General.
3–1.605–3 Procedures.
3–1.606 Suspension.
3–1.606–3 Procedures.

Subpart 3–1.6—Debarment, Suspension and Ineligibility

§ 3–1.600 Scope of subpart.

(a) This subpart:

(1) Prescribes Departmental procedures for debarring and suspending contractors, and the use and maintenance of a Consolidated List of Debarred, Suspended and Ineligible Contractors.

§ 3–1.602 Definitions.

(h) "Debarring Official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

(m) "Suspending Official" means the Deputy Assistant Secretary for Procurement, Assistance and Logistics.

§ 3–1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors, and agency records.

§ 3–1.603–1 Consolidated list of debarred, suspended, and ineligible contractors.

(b) The Office of Procurement, Assistance, and Logistics (OPAL) shall perform the actions required by § 1–1.603–1(b), concerning notifying GSA, handling inquiries, and establishing procedures.

§ 3–1.603–2 Agency records.

OPAL shall maintain the records required by § 1–1.603.2.

§ 3–1.604 Treatment to be accorded listed contractors.

§ 3–1.604–1 General.

(d) The Deputy Assistant Secretary for Procurement, Assistance, and Logistics (DASPAL) shall make the determinations required by §§ 1–1.604–1, 1–1.604–3 and 1–1.604–4, concerning exceptions, continuation or termination of existing contracts, restrictions, etc. Requests for determinations concerning these matters shall be submitted through procurement channels to the DASPAL and shall contain all pertinent documents or a written summary of any pertinent information for which documentation is not available.

§ 3–1.605 Debarment.

§ 3–1.605–1 General.

(d) No contracts shall be awarded to, and no subcontracts shall be consented to or approved for the contractor by HHS pending a debarment decision when no suspension is in effect at the time debarment is proposed. The names of such individuals or organizations shall be transmitted with the Consolidated List of Debarred, Suspended, and Ineligible Contractors.

§ 3–1.605–3 Procedures.

(a) *Investigation and referral.* Whenever cause for debarment becomes known to a contracting officer, the matter shall be referred through procurement channels, to the DASPAL, together with a recommended action. The submission should contain all pertinent documents and a written summary of any pertinent information for which documentation is not available.

(b) *Decisionmaking process.* The DASPAL shall review recommended actions and make a determination as to whether debarment procedures are to be initiated. A copy of this determination shall be promptly sent to the procurement activity which provided the submission. If the determination is that debarment procedures are to be initiated, the DASPAL shall notify the contractor in accordance with 41 CFR 1–1.605–3(c). In actions not based upon a conviction or judgment or on a debarment by another agency, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the proposed debarment, fact-finding shall be conducted by the DASPAL. The DASPAL shall: Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department, and provide a transcript of fact-finding hearings which shall be made available at cost to the contractor upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The DASPAL shall also ensure that written findings of fact are prepared, and shall base the debarment decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding hearings and may present witnesses for HHS and question any witnesses presented by the contractor.

§ 3–1.606 Suspension.

§ 3–1.606–3 Procedures.

(a) *Investigation and referral.* Whenever cause for suspension becomes known to a contracting officer, the matter shall be referred through procurement channels to the DASPAL, together with a recommended action. The submission should contain pertinent documents and a written summary of any information for which documentation is not available.

(b) *Decisionmaking process.* The DASPAL shall review recommended actions and make a determination as to whether suspension is to be imposed. A copy of this determination shall be promptly sent to the procurement activity which provided the submission. If the determination is that suspension is to be imposed, the DASPAL shall notify the contractor in accordance with 41 CFR 1–1.606–3(c). In actions not based on an indictment or a suspension by another agency, if it is found that the contractor's submission in opposition raises a dispute over facts material to the suspension and if no determination has been made, on the basis of advice received from the Department of Justice or a state prosecuting official, that substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, fact-finding shall be conducted by the DASPAL. The DASPAL shall: Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department, and provide a transcript of fact-finding hearings which shall be made available at cost to the contractor upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The DASPAL shall also ensure that written findings of fact are prepared, and shall base the decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record. The Office of General Counsel shall represent the Department at any fact-finding hearings and may present witnesses for HHS and question any witnesses presented by the contractor.

[FR Doc. 84–5447 Filed 3–1–84; 8:45 am]
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DEPARTMENT OF THE INTERIOR

41 CFR Part 14

Interior Procurement Regulations Mistakes in Bids

AGENCY: Office of the Secretary, Interior.
ACTION: Final rule.

SUMMARY: This rule amends the Interior Procurement Regulations (IPR) to delegate authority to procurement offices to make administrative determinations on mistake in bid allegations under the conditions in FPR § 1-2.406-3(a)(1). This action is being taken in order to simplify and expedite the processing of certain mistake in bid cases.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: William Opdyke, Office of Acquisition and Property Management, Division of Acquisition and Grants, Department of the Interior, Washington, D.C. 20240, (202) 343-3433.

SUPPLEMENTARY INFORMATION: This rulemaking action is designed to simplify and expedite the process for making administrative determinations on mistakes in bids under FPR § 1-2.406-3(a)(1). Delays in the internal processing of mistake cases where the bidder has requested permission to withdraw its bid have often resulted in delayed contract awards until a final decision by the Director, Office of Acquisition and Property Management has been made. In order to permit more timely decisions in such instances, this rule delegates authority to the head of each procurement office to make certain administrative determinations. Legal concurrence is required prior to approval in accordance with FPR § 1-2.406-3(c) and bureaus may impose additional review requirements, as appropriate. All other mistake in bid allegations will continue to be approved by the Director, Office of Acquisition and Property Management, in accordance with IPR Subpart 14-2.4.

Public comment is not being requested on this rulemaking change since it involves changes in internal procedures only.

The Department of the Interior has certified that this document will 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.*) since it involves only changes in internal Department procedures. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* Further, the Director of the Office of Management and Budget has exempted agency procurement regulations from the requirements of E.O. 12291.

The primary author of this rule is William Opdyke, Chief, Branch of Policy and Regulations, Division of Acquisition and Grants, Office of Acquisition and Property Management, (202) 343-3433.

List of Subjects in 41 CFR Part 14

Government procurement.

Accordingly, pursuant to the authority of 5 U.S.C. 301, 40 U.S.C. 486(c), 41 CFR 14-2.4 is amended to read as stated below.

Dated: February 17, 1984.

Joseph E Doddridge,

Acting Deputy Assistant Secretary of the Interior.

PART 14-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 14-2.4—Opening of Bids and Award of Contract

Section 14-2.406-3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 14-2.406 Mistakes in bids.

§ 14-2.406-3 Other mistakes disclosed before award.

(a) The authority to make the administrative determination under FPR § 1-2.406-3(a)(1) pursuant to FPR § 1-2.406-3(b) is delegated to heads of procurement offices. Each proposed determination shall be approved by the appropriate Office of the Solicitor in accordance with FPR § 1-2.406(c) and any additional bureau procedures. Copies of all signed determinations shall be promptly transmitted to the Director, Office of Acquisition and Property Management.

(b) The Director, Office of Acquisition and Property Management is delegated authority to make the administrative determinations under FPR §§ 1-2.406-3(a)(2), (a)(3), and (a)(4) pursuant to FPR § 1-2.406-3(b). Each proposed determination shall be approved by the Associate or Assistant Solicitor, Division of General Law.

* * * * *

[FR Doc. 84-5707 Filed 3-1-84; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Public Land Order 6524

[Nev-047410, Nev-047411, Nev-047419; Nev-047423 and Nev-047436]

Revocation of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.
ACTION: Public Land Order.

SUMMARY: This order revokes five Departmental orders which withdrew lands for stock driveways. A total of 172,608 acres will be restored to surface entry. The lands have been and will remain open to mineral leasing and mining.

EFFECTIVE DATE: March 31, 1984.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702-784-5703.

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

1. The Departmental Orders of January 16, 1919, March 6, 1919, March 21, 1919, May 23, 1919 and November 8, 1919, creating Stock Driveway Withdrawal Nos. 54, 62, 75, 83 and 112 (Nevada Nos. 10, 11, 19, 23 and 36), respectively, are hereby revoked in their entirety.

Mount Diablo Meridian

(Nev-047410)

Stock Driveway—Withdrawal No. 54, Nevada No. 10

T. 10 N., R. 35 E.,
Sec. 1, Lots 1, 2, 8, 9.
T. 11 N., R. 35 E.,
Sec. 1, S½;
Sec. 12, N½, NE¼SW¼, S½SW¼, SE¼;
Sec. 13, All;
Sec. 14, E½;
Sec. 23, NE¼, S½;
Sec. 24, W½;
Sec. 25, NW¼;
Sec. 26, All;
Sec. 27; SE¼;
Sec. 34, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 35, All.
T. 10 N., R. 36 E.,
Sec. 13, All;
Sec. 14, All;
Sec. 15, All;
Sec. 16, N½, NE¼SW¼, SE¼;
Sec. 17, NE¼NE¼.
T. 11 N., R. 36 E.,
Sec. 6, All;
Sec. 7, All.
T. 12 N., R. 36 E.,
Sec. 3, All;
Sec. 9, E½
Sec. 10, All;
Sec. 15, W½;

Sec. 16, NE¼, S½;
Sec. 17, SE¼;
Sec. 20, N½NE¼, NW¼;
Sec. 29, All;
Sec. 30, E½;
Sec. 31, NE¼, S½;
Sec. 32, W½.
T. 13 N., R. 36 E.,
Sec. 11, S½;
Sec. 12, All;
Sec. 13, N½;
Sec. 14, All;
Sec. 23, All;
Sec. 26, All;
Sec. 34, All;
Sec. 35, All.
T. 10 N., R. 37 E.,
Sec. 1, All;
Sec. 2, All;
Sec. 3, All;
Sec. 8, All;
Sec. 9, All;
Sec. 10, All;
Sec. 17, All;
Sec. 18, All.
T. 10 N., R. 37½ E.,
Sec. 4, All;
Sec. 5, All;
Sec. 6, All.
T. 13 N., R. 37 E.,
Sec. 4, W½;
Sec. 5, E½;
Sec. 7, All;
Sec. 8, All;
Sec. 9, W½;
Sec. 16, NW¼;
Sec. 17, N½;
Sec. 18, N½.
T. 14 N., R. 37 E.,
Sec. 9, S½S½;
Sec. 10, S½;
Sec. 11, NE¼, S½NW¼, S½;
Sec. 12, All;
Sec. 14, NW¼;
Sec. 15, All;
Sec. 16, E½;
Sec. 21, E½;
Sec. 22, All;
Sec. 27, All;
Sec. 28, All;
Sec. 32, E½;
Sec. 33, All.
T. 10 N., R. 38 E.,
Sec. 5, All;
Sec. 6, All.
T. 11 N., R. 38 E.,
Sec. 12, All;
Sec. 13, All;
Sec. 14, All;
Sec. 22, All;
Sec. 23, All;
Sec. 27, All;
Sec. 28, All;
Sec. 32, All;
Sec. 33, All.
T. 13 N., R. 38 E.,
Sec. 3, All;
Sec. 10, All;
Sec. 14, All;
Sec. 15, All;
Sec. 23, All;
Sec. 24, W½;
Sec. 25, NW¼, S½;
Sec. 26, All;
Sec. 36, N½.
T. 14 N., R. 38 E.,
Sec. 5, NW¼;
Sec. 6, All;
Sec. 7, All;
Sec. 18, All;
Sec. 19, All;
Sec. 20, All;
Sec. 21, All;
Sec. 27, All;
Sec. 28, All;
Sec. 34, All.
T. 11 N., R. 39 E.,
Sec. 5, All;
Sec. 6, All;
Sec. 7, All;
Sec. 8, All.
T. 13 N., R. 39 E.,
Sec. 30, S½;
Sec. 31, All;
Sec. 32, All.

The area described aggregates 16,448.18 acres.

(Nev-047411)

Stock Driveway—Withdrawal No. 62, Nevada No. 11

T. 12 N., R. 40 E.,
Sec. 4, Lots 3, 4, S½NW¼, SW¼;
Sec. 9, W½W½;
Sec. 16, W½W½.
T. 13 N., R. 40 E.,
Sec. 1, Lots 1 thru 4, S½N½;
Sec. 2, Lots 1 thru 4, S½N½, S½;
Sec. 3, Lots 1 thru 4, S½N½, S½;
Sec. 4, Lots 1 thru 4, S½N½, S½;
Sec. 5, Lots 1, 2, S½NE¼, SE¼;
Sec. 8, E½;
Sec. 9, N½, SW¼;
Sec. 16, W½;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, W½;
Sec. 28, W½;
Sec. 29, E½;
Sec. 32, E½.
Sec. 33, W½.
T. 14 N., R. 40 E.,
Sec. 35, All;
Sec. E½, N½NW¼.
T. 14 N., R. 41 E.,
Sec. 2, Lots 1 thru 3, S½NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 3, Lots 1 thru 4, S½N½, S½;
Sec. 9, SE¼;
Sec. 10, All;
Sec. 15, N½, SW¼;
Sec. 16, E½;
Sec. 21, E½;
Sec. 22, W½;
Sec. 27, W½;
Sec. 28, All;
Sec. 31, Lots 1 thru 4, E½, E½W½;
Sec. 32, All;
Sec. 33, All;
Sec. 34, W½.
T. 15 N., R. 41 E.,
Sec. 14, SE¼;
Sec. 23, NE¼;
Sec. 24, W½;
Sec. 25, W½;
Sec. 26, All;
Sec. 35, N½, N½SW¼, SE¼SW¼, SE¼.
T. 20 N., R. 43 E.,
Sec. 11, N½SE¼.

The area described aggregates 56,941.97 acres.

(Nev.-047419)

Stock Driveway—Withdrawal No. 75, Nevada No. 19

T. 15 N., R. 50 E.,
Sec. 1, Lots 1 thru 4, S½N½, S½;
Sec. 12, All;
Sec. 13, All.
T. 16 N., R. 50 E.,
Sec. 3, All;
Sec. 10, All;
Sec. 14, All;
Sec. 15, All;
Sec. 22, NE¼;
Sec. 23, All;
Sec. 24, SW¼;
Sec. 25, All;
Sec. 26, All;
Sec. 36, All.
T. 17 N., R. 50 E.,
Sec. 13, All;
Sec. 22, SE¼;
Sec. 23, All;
Sec. 24, All;
Sec. 26, N½, SW¼;
Sec. 27, All;
Sec. 34, All.
T. 17 N., R. 51 E.,
Sec. 4, All;
Sec. 8, All;
Sec. 9, All;
Sec. 17, All;
Sec. 18, All.
T. 18 N., R. 51 E.,
Sec. 23, All;
Sec. 24, All;
Sec. 26, All;
Sec. 27, All;
Sec. 33, All;
Sec. 34, All.
T. 18 N., R. 52 E.,
Sec. 2, All;
Sec. 3, All;
Sec. 9, All;
Sec. 10, All;
Sec. 16, All;
Sec. 17, All;
Sec. 19, All;
Sec. 20, All.
T. 19 N., R. 52 E.,
Sec. 13, All;
Sec. 14, All;
Sec. 22, All;
Sec. 23, All;
Sec. 24, All;
Sec. 26, All;
Sec. 27, All;
Sec. 34, All;
Sec. 35, All.
T. 19 N., R. 53 E.,
Sec. 2, NW¼;
Sec. 3, Lots 1 thru 4, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 4, Lots 1, 2, S½SE¼;
Sec. 9, All;
Sec. 10, Lots 1 thru 4, N½, W½SW¼, N½SE¼, SE¼SE¼;
Sec. 15, Lots 1 thru 9, 12 thru 17;
Sec. 16, Lots 1 thru 7, N½,N½, SW¼NE¼, S½NW¼, N½,SW¼, SW¼SW¼;
Sec. 17, All;
Sec. 18, Lots 1 thru 4, E½, E½W½;
Sec. 19, Lots 1 thru 4, E½, E½W½;
Sec. 20, All;
Sec. 21, Lots 1 thru 5, NW¼.

T. 20 N., R. 53 E.,
Sec. 12, Lots 1 thru 4, W½E½,W½;
Sec. 13, Lots 1 thru 4, W½E½,W½;
Sec. 14, All;
Sec. 23, All;
Sec. 24, NW¼;
Sec. 26, All;
Sec. 27, SE¼;
Sec. 34, Lots 3 thru 36, E½;
Sec. 35, All.
T. 20 N., R. 54 E.,
Sec. 6, Lots 1 thru 7, S½NE¼,SE¼NW¼, E½SW¼,SE¼;
Sec. 7, Lots 1 thru 4, E½,E½W½.
T. 21 N., R. 54 E.,
Sec. 6, Lots 1 thru 7, S½NE¼,SE¼NW¼, E½SW¼,SE¼;
Sec. 7, Lots 1 thru 4, E½,E½W½;
Sec. 18, Lots 1 thru 4, E½,E½W½;
Sec. 19, Lots 1 thru 4, E½,E½W½;
Sec. 30, Lots 1 thru 4, E½,E½W½;
Sec. 31, Lots 1 thru 4, E½,E½W½.
T. 21½ N., R. 54 E.,
Sec. 31, Lots 1 thru 7, S½NE¼,SE¼NW¼, E½SW¼,SE¼.
T. 22 N., R. 54 E.,
Sec. 2, Lots 1 thru 4, S½N½,S½;
Sec. 3, Lots 1 thru 4, S½N½,S½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, All;
Sec. 15, All;
Sec. 16, All;
Sec. 17, All;
Sec. 20, All;
Sec. 21, All;
Sec. 29, All;
Sec. 30, Lots 1 thru 4, E½,E½W½;
Sec. 31, Lots 1 thru 4, E½,E½W½.
T. 23 N., R. 54. E.,
Sec. 13, All;
Sec. 14, All;
Sec. 23, All;
Sec. 24, All;
Sec. 25, All;
Sec. 26, All;
Sec. 34, All;
Sec. 35, All;
Sec. 36, All.

The area described aggregates 58,731.73 acres.

(Nev-047423)

Stock Driveway—Withdrawal No. 83 Nevada No. 23

T. 18 N., R. 51 E.,
Sec. 4, Lots 1 thru 4, S½N½,S½;
Sec. 9, All;
Sec. 16, All;
Sec. 21, All;
Sec. 28, All;
T. 19 N., R. 51 E.,
Sec. 5, All;
Sec. 8, All;
Sec. 9, All;
Sec. 16, All;
Sec. 21, All;
Sec. 28, All;
Sec. 33, All.
T. 20 N., R. 51 E.,
Sec. 3, All;
Sec. 9, All;
Sec. 10, All;
Sec. 16, All;
Sec. 20, All;
Sec. 21, All;
Sec. 29, All;
Sec. 32, All;
T. 21 N., R. 51 E.,
Sec. 3, Lots 1 thru 4, S½N½,S½;
Sec. 10, All;
Sec. 15, All;
Sec. 22, All;
Sec. 27, All;
Sec. 34, All;
T. 22 N., R. 51 E.,
Sec. 2, All;
Sec. 11, All;
Sec. 14, All;
Sec. 22, All;
Sec. 23, All;
Sec. 27, All;
Sec. 34, All.
T. 23 N., R. 51 E.,
Sec. 25, All;
Sec. 35, All;
Sec. 36, All;
T. 23 N., R. 52 E.,
Sec. 5, Lots 3, 4, S½NW¼,SW¼;
Sec. 6, Lots 1, 2, S½NE¼,SE¼;
Sec. 7, E½;
Sec. 8, W½;
Sec. 17, W½;
Sec. 18, E½;
Sec. 19, Lots 7, 12, E½;
Sec. 20, W½;
Sec. 29, W½;
Sec. 30, Lots 1 thru 12, E½;
Sec. 31, Lots 1 thru 12.
T. 24 N., R. 52 E.,
Sec. 6, All;
Sec. 7, All;
Sec. 18, All;
Sec. 19, All;
Sec. 30, All;
Sec. 31, All.
T. 25 N., R. 52 E.,
Sec. 5, All;
Sec. 7, All;
Sec. 8, All;
Sec. 18, All;
Sec. 19, All;
Sec. 30, All;
Sec. 31, All.
T. 26 N., R. 52 E.,
Sec. 20, All;
Sec. 29, Lots 1 thru 4, W½E½,W½;
Sec. 32, Lots 1 thru 4, W½E½,W¼.

The area described aggregates 36,593.09 acres.

(Nev-047436)

Stock Driveway—Withdrawal No. 112 Nevada No. 36

T. 25 N., R. 48 E.,
Sec. 4, Lots 1 thru 12, S½;
Sec. 9, All;
Sec. 16,All.
T. 26 N., R. 48 E.,
Sec. 21, All;
Sec. 28, All;
Sec. 33, All;
T. 27 N., R. 49 E.,
Sec. 5,All;
Sec. 6,All.

The area described aggregates 3,893.12 acres.

The total area of the lands involved is 172,608 acres of which approximately 99,218 are in Eureka County; 72,555 in Nye County; 145 in Mineral County; 530 in Churchill County; and 160 in Lander County.

3. At 10 a.m. on March 31, 1984, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received from the date of this publication until and including 10 a.m. on March 31, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and will remain open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 12000, 300 Booth Street, Reno, Nevada 89520.

Dated: February 23, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-5660 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

Radio Frequency Devices; Corrections

AGENCY: Federal Communications Commission.

ACTION: Final rules; corrections.

SUMMARY: The Commission has discovered typographical errors in several previously published documents amending 47 CFR Part 15, Radio frequency devices. This document is intended to make the necessary corrections.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Herman Garlan, (202) 653-8247.

Erratum

In the matter of correcting typographical errors in 47 CFR Part 15.

Adopted: February 17, 1984.
Released: February 22, 1984.

This Order is issued to correct errors in 47 CFR Part 15. These errors are typographical in nature and are corrected as follows:

§ 15.75 [Corrected]

In 47 CFR 15.75(b)(3), delete the statement "formerly 6Q IRE 17 S1" in the parenthesis and in lieu thereof insert

"formerly 60 IRE 17 S1" (Original document appeared in **Federal Register** on 9–13–82; 47 FR 40166).

2. In 47 CFR 15.75(c) delete the phrase "15 uV/mat any any" and in lieu thereof insert the phrase "15 uV/m at any" (4–7–70; 35 FR 5615).

§ 15.79 [Corrected]

3. In 47 CFR 15.79(d) correct the table to read as follows:

Width of tuning range of each band	Number of frequencies	Location in tuning range
1 MHz	1	Middle.
1 to 10 MHz	2	One near top. One near bottom.
Over 10 MHz	3	One near top. One near middle. One near bottom.

§ 15.111 [Corrected]

4. In 47 CFR 15.111 correct the table to read as follows. (3–7–75; 40 FR 10673):

Frequency (kHz)	Distance (meters)	Field strength (uv/m)
10 to 490	300	2400
		F(kHz)
510 to 1600	30	24000
		F(kHz),

§ 15.832 [Corrected]

5. In 47 CFR 15.832, last sentence correct the frequency range "450 to 30,000 kHz" to read "450 kHz to 30 MHz" (4–9–80; 45 FR 24154).

William J. Tricarico,

Secretary.

[FR Doc. 84–5395 Filed 3–1–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 69

[CC Docket No. 78–72; Phase I; FCC 84–36]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission addresses petitions for further reconsideration of its rules for computing and assessing end user charges and carrier's carrier access charges and delays imposition of end user charges on residential and single line businesses. The original rules were published on March 11, 1983, at 48 FR 10319.

Reconsideration was published on September 21, 1983, at 48 FR 42987. The Commission has now concluded that changes are necessary because the existing rules might endanger universal service and competition in the telephone industry.

EFFECTIVE DATE: March 5, 1984.

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

FOR FURTHER INFORMATION CONTACT: Larry Povich, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–6363.

List of Subjects in 47 CFR Part 69

Access charges, Communication common carriers, Cost allocation, Exchange carrier association, Revenue pooling, Tariffs, Telephone.

Memorandum Opinion and Order

In the matter of MTS and WATS Market Structure; CC Docket No. 78–72, Phase I.

Adopted: February 3, 1984.
Released: February 15, 1984.

By the Commission: Chairman Fowler issuing a separate statement; Commissioner Patrick not participating.

I. Introduction

1. In the *Third Report and Order* in this docket (*Access Charge Order*),[1] we adopted rules to determine the manner in which telephone companies will be compensated for the origination and termination of interstate and foreign telecommunications services. Those rules required that access charges be imposed upon interexchange carriers and end users who lease or use exchange facilities that could be used to complete interstate telecommunications. We identified four primary goals when we adopted the access charge plan set forth in the *Access Charge Order:*

(1) Elimination of unreasonable discrimination and undue preferences among rates for interstate services;

(2) Efficient use of the local network;

(3) Prevention of uneconomic bypass; and

(4) Preservation of universal service. *See Access Charge Order* at para. 26. As noted in paragraph 3 of the *Reconsideration Order* that access charge plan "also represented an effort to preserve an opportunity for fair competition during a transition period in which we and the industry work to eliminate existing inequalities in interconnection options offered interexchange carriers."

2. The *Reconsideration Order* reaffirmed our commitment to both the goals of this proceeding as set forth in the *Access Charge Order* and the approach adopted in that *Order* to achieve these goals. On reconsideration, however, we concluded that the public interest required that the access charge plan be modified to offer a more gradual transition to residential subscribers and Centrex-CO subscribers [2] and to distribute access costs more equitably among all categories of persons using a telephone company's access services. In the *Reconsideration Order* we attempted to modify the plan to achieve these results in such a way that none of the underlying goals of this docket was threatened. In thirty-five petitions for reconsideration, users, carriers and state regulators have suggested that we have yet to strike the right balance among these potentially conflicting goals. Most of the formal petitions have restricted themselves to raising issues related to one of three subjects:

(1) The customer access line charge assessed on subscriber lines associated with Centrex-CO service;

(2) The charges assessed for access service for MTS–WATS equivalent services that compete with MTS and WATS; and

(3) The surcharge to be imposed upon interstate WATS lines and some jurisdictionally interstate private lines.

3. Less formal requests to rescind or modify our decision to establish end user charges have also been filed before, during and after the statutory period for the filing of petitions for further reconsideration. This Commission has received over 4,000 letters on that subject since the adoption of the *Access Charge Order* in December 1982. Public officials who have a role in the formulation of telecommunications policy have also directly or indirectly expressed the view that a wider range of alternatives should be considered.[3] This

[1] 93 FCC 2d 241, 48 FR 10319 (March 11, 1983), *on recon.* (Reconsideration Order), FCC 83–356, 48 FR 42967 (September 21, 1983), *appeal pending sub nom.* National Association of Regulatory Utility Commissioners v. F.C.C., Case No. 83–1225 (D.C. Cir.) (NARUC v. F.C.C.)

[2] For a description of Centrex-CO service, see Part III, *infra.*

[3] Such expressions of concern include a letter dated January 18, 1984, from Senator Dole to Chairman Fowler, signed by 31 other United States Senators, requesting, *inter alia,* that the Commission defer end user charges for residential and single line business customers. That letter was served upon all parties to the proceeding. Although this letter was submitted one day before the scheduled Commission meeting to consider petitions for further reconsideration and we normally do not accept submissions in rulemaking proceedings within a seven day period preceding such a meeting, we decided to depart from that practice in view of the highly important nature of the issues to all members of the public and because we recognize the particular institutional concerns of Congress in this case. We decided to accept the letter and to seek public comment upon it before reaching a final decision. *See* FCC New Release No. 17831 (January 19, 1984) (describing tentative decision to defer

Continued

Order will address questions relating to end user charges before describing our resolution of questions that were presented in formal petitions for further reconsideration.

II. End User Common Line Charges

4. We have decided that the end user charges for residential and single-line business customers should be deferred until June 1, 1985. This delay will enable us to conduct supplemental proceedings to devise an exemption for persons who cannot afford to pay any end user charge, reevaluate the transition plan for end user charges, and explore alternative mechanisms to assist customers of small telephone companies. We will also conduct further studies of the elasticity of demand and bypass in order to assist us in making those decisions.

5. At the outset, we stress that we affirm our conclusion in the *Access Charge Order* and the *Reconsideration Order* that a system of flat end user charges to recover NTS costs will best preserve universal telephone service in the long run by deterring uneconomic bypass. See *Access Order* at paras. 30–35; *Reconsideration Order* at para. 8.

6. The *Access Charge Order* established an End User Common Line charge in order to provide a mechanism for recovering interstate subscriber loop costs through fixed monthly charges. We concluded that such fixed charges would achieve the four primary goals of this proceeding. A system of fixed charges would:

(1) Eliminate the discrimination or preferences that result from the inconsistent methods that have been used to recover interstate subscriber loop and private line loop costs;

(2) Promote economic efficiency by eliminating the distortions that inevitably result from the recovery of fixed costs through usage charges; and

(3) Deter uneconomic bypass by removing the incentive for large users to substitute bypass facilities that may be more costly than the local distribution facilities of the telephone companies.

(4) Preserve universal telephone service by avoiding rate increases for remaining telephone company customers that would result from uneconomic bypass.

7. At the same time, we recognized that immediate implementation of any plan to recover most interstate subscriber loop costs through fixed charges could, in the absence of adequate safeguards, conflict with the universal service goal that we found to be implicit in Section 1 of the Communications Act, 47 U.S.C. 151. We observed in paragraph 80 of the *Access Charge Order:*

> Most participants who filed comments in response to the *Fourth Supplemental Notice* apparently agree that encouraging persons to subscribe to local exchange service must be one of the objectives of this proceeding. This is usually described as the "universal service" objective or goal. The term "universal service" has rarely been defined. Most participants apparently agree that "universal service" has existed on a nationwide basis for several years. In the context of this proceeding a "universal service objective" means avoiding actions that would cause a significant number of local exchange service subscribers to cancel that service.

8. A flat monthly charge reflecting interstate subscriber loop costs would represent an increase in the total fixed charge that a subscriber must pay in order to receive local exchange service. We decided that the risk that an increase in fixed costs would cause some subscribers to cancel local exchange service could be avoided by excluding the Universal Service Fund portion of loop costs from fixed charges and by phasing in the fixed charge for other loop costs over a period of years. We modified the original transition plan for phasing in such charges in the *Reconsideration Order*. The modified plan established an initial charge of $2 for residential customers. That charge would be increased to $3 in 1985 and $4 in 1986. Business customers would pay the lesser of $6 or the post-transition charge in those years. A formula was adopted to compute charges during the remaining three years of the transition.

9. We took two other steps to assure that universal service would be protected. Our staff was instructed to develop a monitoring program to detect any unanticipated effects of access charges upon subscriptions to local exchange service.[4] We also decided to conduct a further notice and comment proceeding by the end of the third year of the transition to enable us to evaluate the effects of access charges before implementing portions of the transition plan that could produce residential end user charges in excess of $4 per month. In addition universal service is protected by the creation of a Universal Service Fund to prevent high local exchange service rates in high cost study areas.

10. Most critics of the plan for end user charges have contended that these measures will not be sufficient to protect universal service. However, some of the criticism directed at the plan for end user charges is probably based upon a general feeling that usage charges are inherently more fair than fixed charges. We do not share that perception of fairness. We do not believe that it would be unfair to require every person who can afford to do so to bear the full cost of that person's line to the telephone company's switch. Any method of recovery that shifts some of the cost of such a person's line to other persons imposes an inequitable burden upon the persons who pay those costs.

11. The language and history of the Communications Act obliges us to eliminate discrimination or preferences and to promote economic efficiency when it is possible to do so without impairing other Communications Act goals. We concluded in the *Access Charge Order*, without losing sight of universal service obligations, that an end user charge constitutes the best method of alleviating discrimination or preferences in the existing rate structure while at the same time establishing incentives for a more efficient and productive telecommunications network. See *Access Charge Order* at paras. 90–123. Critics of end user charges have tended to ignore those goals apart from occasional assertions that the efficiency benefits are "theoretical." They have not persuaded us that the generally accepted principle that recovery of fixed costs through usage charges impairs economic efficiency is not applicable to telecommunications.

12. The *Access Charge Order* also found that failure to recover some fixed costs through fixed charges will result in the growth of uneconomic bypass. Such a result would not only impair economic efficiency, but would also lead to increased charges for users of underutilized telephone company facilities. Some critics of our decision have expressed skepticism with respect to that finding. Although no one has been able to present us with the information we would need to devise an end user charge that is calibrated to recover just enough to deter uneconomic bypass at any point in time, we remain convinced that uneconomic bypass is a threat to the vitality of the existing telecommunication network. Even legislative proposals to defer or preclude some or all end user access charges include provisions that purport to provide a deterrent to uneconomic

some end user charges); FCC Public Notice, Mimeo No. 1945 (January 19, 1984) (seeking comment on January 18 letter from 32 United States Senators); FCC News Release No. 17839 (January 25, 1984) (describing final decision to defer some end user charges).

[4] *See* Notice of Proposed Rulemaking, MTS and WATS Market Structure Inquiry (Phase IV), FCC 83–254 (released June 8, 1983). We are not eliminating the safeguards which were provided in prior orders.

bypass. Legislators who endorsed such proposals have at least implicitly accepted the view that uneconomic bypass is real. We have already concluded that alternative deterrents would not be as effective in achieving the goals of the present Act. We reaffirm our conclusion that some access costs should be recovered through end user charges in the future in order to deter uneconomic bypass.

13. Although past studies of the elasticity of demand for exchange telephone service are less conclusive than would be desirable, such telephone service is very inelastic.[5] This means that telephone service subscription levels will not change significantly with increases in rates, unless fixed charges are driven up substantially higher than the levels contemplated with end user charges. Thus, claims that no end user charge can be levied without driving many exchange service subscribers away from the telephone system are clearly incorrect.

14. Recovery of Common Line costs attributable to multi-line business subscribers through fixed charges assessed to multi-line business subscribers would not lead to a reduction in universal service. Those costs would not be high enough to cause such a business to forego telephone service. Thus, any reevaluation of our end user charge plan can be limited to charges for residential and single-line business subscribers.

15. Most residential and single-line business customers can also afford to pay at least a portion of their Common Line costs through fixed charges, but an exemption will be required for the minority of subscribers who may not be able to afford any end user charge. When we adopted the *Reconsideration Order* we assumed that an exemption from end user charges could be provided for persons with very low incomes by inviting state commissions or telephone companies to petition for a waiver of end user charges for a clearly defined class of users. *Id.* at para. 13. We also noted that state commissions could remedy this problem in the absence of such an access charge exemption by structuring local exchange service rates to provide a "lifeline" rate that would ameliorate the effects of end user access charges. *Id.* at para. 14.

16. In spite of this invitation, we have received only two petitions for "lifeline service" waivers. The New York Telephone Company and the Pacific Telephone and Telegraph Company each filed waiver applications on September 28, 1983. We have not received any lifeline waiver application from any state commission.

17. The absence of such applications might indicate that the state commissions have already devised local exchange service rate structures that would ensure the availability of an affordable rate for all potential local exchange service subscribers. Our examination of state commission ratemaking practices in the recent proceeding to determine the effects of certain federal decisions indicates that this is not the case. See *Analysis, supra.* Measured service options are not offered to residential subscribers in many exchanges.[6] Many companies that do offer measured service in at least some exchanges do not include a "lifeline" type option that is targeted in an effective manner.

18. We must conclude that it would be unrealistic to assume that all or even most state commissions will devise a local exchange service rate structure that will ameliorate effects of end user access charges upon low income subscribers in the near future. It is also unrealistic to expect that all state commissions will adopt lifeline plans for local exchange service tariffs that can be cross-referenced in an interstate access charge tariff in order to establish an exemption from end user access charges that is limited to persons who may in fact need an exemption. We now conclude that it will be necessary for us to define a category of subscribers who would be exempt from end user access charges. The record in the Docket 78–72 proceeding does not provide us with the information we need to define that category and we cannot rely upon our cumulative expertise for this purpose. This agency has not been obliged to devise such categories or to review carrier efforts to devise such categories in the past. Therefore, we must conduct supplemental proceedings in order to devise a rule that will provide an exemption for those persons who might have to disconnect if they were required to pay end user access charges.

19. We also believe a more gradual transition plan to introduce end user charges will be required for persons who would not qualify for an exemption. No exemption formula can identify all persons who might decide to cancel local exchange service in response to a precipitous increase in fixed charges. We have decided that the supplemental proceedings should also be designed to develop additional information with respect to the elasticity of demand for local exchange service. Such information will assist us in establishing an initial charge and fixing the size and timing of increases in order to avoid any negative effect upon the universality of service. It will also assist us in determining the maximum charge that should be established at the end of the transition.

20. We will also develop and analyze additional information with respect to the extent and dangers of bypass. We have received information that demonstrates that large users of interexchange services have the incentive and the means to bypass and that a deleterious effect upon universal service can be expected if such users elect to use bypass facilities. However, we intend to use this additional information to design the transition plan. The end user charges at particular points in the transition should be low enough to avoid any adverse effect upon the universality of service and high enough to produce toll rate reductions that are sufficient to deter uneconomic bypass. We will adopt the suggestion in a January 18, 1984, letter from thirty-two United States Senators that the end user charge for residential and single line business customers be capped at $4.00 until at least 1990.

21. Although we encourage all interested persons to submit information in the supplemental proceedings, we will not rely exclusively upon the submission of more comments to provide the information we need. We are directing our staff to develop plans for further studies and we may seek a supplemental appropriation in order to obtain assistance from outside contractors.

22. We will also reevaluate our decision to establish an end user access charge plan that is uniform for all telephone companies in all states. The original rules that were adopted in the *Access Charge Order* gave telephone companies some flexibility in determining the portion of subscriber loop costs that would be recovered through end user charges. That *Order* observed: "In areas where bypass is a smaller threat, the more gradual transition permitted by continuing to allow usage recovery (to a maximum) appears to have benefits that outweigh the costs." *Id.* at para. 185.

23. The transition plan was revised in the *Reconsideration Order* in light of our finding that some aspects of the original

[5] *See* Analysis of Effects of Federal Decisions on Local Telephone Service ("Analysis") FCC 83–567, released December 21, 1983, for a discussion of elasticity studies.

[6] See Attachment 16 of the Analysis for availability of residential measured service in the former Bell System. Services that are described as a lifeline service usually include a limited number of calls at a fixed rate and accordingly would be described as a measured service option.

plan could not readily be implemented. Although the revised rules established a uniform transition schedule, we recognized that some departures from that schedule may be required. Paragraph 35 of the *Reconsideration Order* stated:

> This schedule provides less flexibility for carriers to design a transition to respond to threats of uneconomic bypass or reduction in universal service that might warrant a more or less rapid transition in particular places. We believe other devices, such as petitions for waiver or petitions to amend the rules, should be sufficient to enable us to depart from this schedule if unanticipated events warrant such a departure.

24. We still believe it would be inadvisable to permit any telephone company to accelerate a schedule for increases in fixed charges in the absence of a clear and convincing showing that such an acceleration is necessary to prevent massive uneconomic bypass. We do, however, intend to examine alternatives to the waiver procedure for small telephone companies who may not wish to impose the full charges that any new transition rules will permit. The January 18 letter from thirty-two United States Senators has proposed that telephone companies be given the option of imposing or refraining from imposing end user charges in study areas with fewer than 50,000 loops. We intend to consider that proposal and other alternatives that will enable us to develop rules that are responsive to the particular needs of customers of small telephone companies in the supplemental proceedings.

25. Such needs might be met by increasing the assistance that is provided to customers of small companies in high cost areas through the Universal Service Fund. The separations rules that we recently adopted could be amended to assign 80 percent of the loop costs between 110 percent and 200 percent of the national average to the interstate jurisdiction. High cost companies in study areas with fewer than 50,000 loops need more assistance than high cost companies in larger study areas because such companies generally have a smaller base of business subscribers and less flexibility in recovering above average costs without producing adverse effects on residential subscribers. We will issue a supplemental notice in CC Docket 80–286 in order to obtain the recommendation of the Federal-State Joint Board with respect to such a revision.

26. Supplemental proceedings that are designed to develop a low income exemption, reevaluate the transition plan for end user charges and provide adequate assistance for customers of telephone companies that serve small study areas will be completed by December 1984. In order to provide the telephone companies with time to complete the preparation of tariffs and to provide all interested persons with a statutory 90 days notice before such tariffs become effective, we have decided that the effective date for access charge tariffs that include end user charges for some residential and single line business customers should be deferred until June 1, 1985. We are revising our rules to establish a June-May access year for future access charge filings. we are waiving the § 69.3(a) requirement that tariffs be filed for an annual period to permit the initial access charges to remain in effect through May 31, 1985.

27. In the *Access Charge Order* at paras. 252–254, we stated that access charges should be targeted to earn a 12.75% rate of return. That statement was meant only to restrict carriers from earning in excess of 12.75%, not to restrain them from earning less. This clarification is important because the delay in residential and single-line business end user charges puts more of a burden on exchange carriers to calculate their charges carefully to meet any enhanced threat of uneconomic bypass. Moreover, they may need flexibility to flow through appropriate reductions in MTS and WATS rates to counterbalance the effect of end user charges upon multiple-line business subscribers. Carriers should not be inhibited in meeting these problems by establishing lower rates that may now be appropriate in light of today's economic climate.

28. We have allowed this kind of flexibility to date. For example, the rate of return for the interstate operations of the Bell System (and all other carriers participating in settlements) had been less than eleven percent for the past two years, and that was not regarded as inconsistent with our requirements in this area.

29. We recognize that our 12.75% prescription may be outdated in view of the significant changes in economic conditions and changes in the structure of the telephone industry that have occurred since the spring of 1981. However, in the *Access Charge Order, at* para. 254, we stated that, "[n]o evidence has been developed in this record that would enable us to predict any future divergence in AT&T and BOC costs of capital." For this reason, we made 12.75 the target for both exchange carriers and AT&T interexchange rates of return, until a different authorized rate of return would be established in subsequent proceedings. The court in *Nader* v. *FCC*, 520 F.2d 182, 205 (D.C. Cir. 1975), said that "* * * such a prescription cannot remain binding indefinitely without agency reevaluation, especially during periods of rapidly changing economic conditions." With this in mind, we intend to continue our analysis of rate of return questions in the post-divestiture environment. Exchange carriers and AT&T are facing rapidly changing economic circumstances, including, possibly, different interest rates, equity structures, pressures from competition and risk factors. We shall allow the overall 12.75 to stand while we develop data on these changed circumstances. In the meantime, AT&T and the exchange carriers may continue to file tariffs targeted to earn less than 12.75 percent, but not more than 12.75 percent.[7]

30. Since we will be reevaluating the entire transition plan for end user charges, the existing Sections 69.202–69.204 will be removed from the rules and a new Section 69.202, which describes the end user charges for a 1984–85 period, will be substituted. Sections 69.203 and 69.204 will be reserved for the new transition rules that we will be adopting in supplemental proceedings.

III. Centrex-CO

A. Prior Proceedings

31. The *Access Charge Order* established different rules for computing End User Common Line charges for residential and business subscribers to local exchange service. Those rules did not distinguish among business customers or business lines.

32. In petitions for reconsideration of the *Access Charge Order*, groups [8] asked this Commission to clarify the treatment that loops used in conjunction with Centrex-CO service would receive under the access charge rules. Centrex-CO is the generic name that these petitioners and the Commission have used to describe a category of service that telephone companies have offered to their customers as an alternative to their leasing or buying a PBX.[9] To provide a Centrex-CO service the telephone company uses a portion of a switch located at its central office. That switch then meets the customer's internal

[7] This does not affect requirements that elements or service categories be targeted to earn the same return.

[8] *See* petitions for reconsideration filed by Ad Hoc Telecommunications Users Committee and International Communications Association.

[9] The BOCs have tariffed these services under such names as ESSX, Centron, and Centraflex as well as Centrex-CO.

telecommunications needs and serves as the customer's interface with the local and interexchange networks. Each of the Centrex customer's main stations is linked directly to the switch by a subscriber loop, which also carries any exchange or interexchange calls to or from that telephone.

33. As we noted in the *Reconsideration Order*, a reasonable reading of the *Access Charge Order* would suggest that Centrex-CO lines should be counted like any other lines between a customer's premises and the local switch that may be used jointly for exchange and interexchange services. *See Reconsideration Order* at para. 42. In their earlier petitions for reconsideration, however, parties had asserted that such an approach, with the concomitant imposition of a minimum monthly flat charge of $4.00 per line,[10] would prove fatal to the service, disastrous to its subscribers and ultimately a threat to universal service. They claimed that because Centrex-CO revenues were used to subsidize exchange service rates and because Centrex-CO customers' abandoning Centrex-CO service would create stranded investment worth millions of dollars, the demise of Centrex-CO would compel substantial rate increases for exchange service. To avoid these results, they proposed that Centrex-CO customers pay a monthly End User Common Line charge no greater than that paid by a customer with a PBX serving the same number of main stations.

34. On reconsideration we rejected the arguments presented by proponents of the PBX trunk equivalency approach to pricing Centrex-CO access lines. *See Reconsideration Order* at paras. 45–46. We did not, however, reject their request for some relief from business line access charges because:

> We cannot be certain that Centrex-CO does not have advantages that may offset the cost of additional lines. The customers cannot make choices that will promote economic efficiency unless both the interstate access charges and the Centrex-CO service rates that are tariffed with the state commissions are priced in a manner that reflects the appropriate costs. Some petitions and other comments, including comments of state commissions, claim or at least suggest that the rates for Centrex-CO service have been set at a level that exceeds intrastate costs attributable to Centrex-CO service in order to provide an additional subsidy for residential local exchange service. In these circumstances, the telephone companies would be deprived of a fair opportunity to compete and the customers and the economy as a whole would be deprived of any benefits that Centrex-CO service may be able to provide if we implemented our access charge plan in a manner that forced customers to abandon Centrex-CO service before the state commissions can reevaluate the rate structures they have adopted.

Id. at para. 47. We concluded that Centrex-CO lines in place or on order on July 27, 1983, the date on which we adopted the *Reconsideration Order*, should be assessed a monthly per line end user charge equal to that assessed residential users.

B. Further Reconsideration Petitions

35. Fourteen petitioners, including telephone companies,[11] state commissions,[12] and customers,[13] have requested that we further reconsider our decision to require Centrex-CO customers to pay per line access charges equal to those paid by residential customers. They assert that our response to their earlier request for relief is illegal, inadequate and based on faulty assumptions.

36. The specific alternatives they recommend are almost as numerous as the petitioners themselves. These alternatives may, however, be grouped into three general categories: (1) Those urging delay of any end user charge on Centrex-CO lines;[14] (2) those requesting modification of the Commission plan either by enlarging the group of Centrex lines paying residential rates or by freezing the rates at 1984 levels;[15] and (3) those urging use of the PBX trunk equivalency approach for some or all Centrex-CO lines either temporarily or permanently.[16]

C. Discussion

37. On reconsideration we rejected the argument that counting each Centrex-CO line as a line for purposes of assessing End User Common Line charges would create discrimination between Centrex-CO and PBX users. Our reasoning was that if Centrex uses more lines, it necessarily creates more outside plant costs. *Reconsideration Order* at para. 45. The BOCs have now renewed their discrimination argument, asserting that charging for each Centrex line separately, even at a reduced rate, creates an unreasonable discrimination.[17] Northwestern Bell cities *Ad Hoc Telecommunications Users Committee* v. *FCC*, 680 F.2d 790 (D.C. Cir. 1982), for the proposition that Centrex-CO and PBXs are "like" services because thay are functionally equivalent from the customer's perspective and consequently that differences in rates for equivalent PBX and Centrex-CO systems must be discriminatory. In *Ad Hoc* the sole issue before the court was whether this Commission had correctly applied the functional equivalency test of likeness to compare three regulated interstate services, MTS, InWATS and OutWATS. Northwestern attempts to compare a PBX, the provision of which is no longer subject to tariff regulation in most instances, with a service that remains under state tariff regulation.[18] The relevant services for purposes of this docket are interstate use of lines between the premises of a PBX or Centrex-CO customer and the telephone company's local switch.[19] A share of the

[10] The *Access Charge Order* would have established a $4 per month minimum charge for business lines in 1984. The business line rate was changed to $6 per month in the *Reconsideration Order*.

[11] *See* petitions for further reconsideration filed by Ameritech, Bell Atlantic, BellSouth, Cincinnati Bell, Northwestern Bell, NYNEX, Pacific and Southwestern Bell.

[12] *See* petitions for further reconsideration filed by Massachusetts and Vermont.

[13] *See* Petitions for further reconsideration filed by the American Hospital Association, Federal Executive Agencies, ICA and New York City.

[14] *See* petitions of BellSouth, Massachusetts and Vermont.

[15] *See* petitions of Pacific, Bell Atlantic, Southwestern Bell, NYNEX, Northwestern, GSA, and BellSouth.

[16] *See* petitions of Ameritech, GSA, Southwestern Bell, ICA, New York City, Massachusetts, Vermont, BellSouth, Pacific, and American Hospital Association.

[17] In its Opposition, ROLM asserts that we should reject petitions relating to the Centrex-CO issue because petitioners have exhausted their administrative remedies. ROLM is correct only to the extent that on reconsideration we certified our intent that under the permanent access charge rules Centrex-CO lines should be treated like all other common lines. Insofar as petitioners seek reconsideration of the transition rules governing Centrex-CO lines, however, these petitions are not untimely. Since we modified the rule for computing Centrex-CO line access charges during the six year transition, petitioners may properly request that we reconsider the modification. See 47 CFR 1.429(i).

[18] *See* Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384, *on recon*, 84 FCC 2d 50 (1980), *on further recon.*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer and Communications Industry Association v. FCC, 693 F. 2d 198 (D.C. Cir. 1982), *cert. denied sub nom. Louisiana Public Service Commission* v. *FCC*, 103 S. Ct. 2109 (1983).

[19] The "access lines" to which we refer here may be restricted to internal or local use. Nonetheless, because a share of the costs of these restricted access lines is allocated to the interstate jurisdiction and must be recovered through interstate service charges, customers leasing such lines must still pay the prescribed interstate End User Common Line charge. Any other pricing structure results in other customers of interstate services assuming the costs of the restricted lines, in effect subsidizing the service costs of the customer leasing the restricted lines. This Commission has concluded that a rate structure in which the customer causing the cost to be incurred bears that cost is in the public interest because only through such pricing can competition in telecommunications services flourish. We have allowed limited deviations from this principle in th setting of end user access charges. We find any further deviation from the principle of cost

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access line costs is allocated to the interstate jurisdiction and become part of the telephone company's interstate revenue requirement. Under the transition plan we adopted in the *Reconsideration Order*, Centrex-CO customers would in fact pay less for each access line they receive than PBX customers would pay in the first few years of the end user access charge transition. Thus, the rate differential which we have found to be reasonable favored Centrex-CO customers.

38. Northwestern Bell presents additional legal arguments to support its position, arguments that we find equally lacking in merit. It raises a constitutional challenge to our treatment of Centrex-CO lines, asserting that it is confiscatory and violates the equal protection requirement of the Fifth Amendment by imposing unequal rules to govern provision of equivalent services (i.e., Centrex-CO and PBXs). These arguments too are premised on the incorrect assumption that the difference between the total end user flat charge for the trunks of a PBX and the loops of a Centrex-CO system serving the same number of main stations is not cost-based. Any alleged impairment to competition between PBX vendors and telephone companies offering Centrex-CO service is justified by the fact that this rate differential is cost-based. Because there are specific provisions in the tax code that cause taxpayers with Centrex-CO systems and taxpayers with private PBXs to pay a comparable Communications Excise Tax, Northwestern infers that our access charge plan is in conflict with Congressional intent. We do not believe that any Congressional intent that is relevant to questions presented in this proceeding can be inferred from Internal Revenue Code provisions that were designed for very different purposes. Northwestern Bell also asserts that our treatment of access lines that provide Centrex-CO service is arbitrary and capricious because it is unsupported by the record.[20] It seems to argue that because we did not grant the specific relief requested in earlier petitions, we must have ignored the evidence presented concerning stranded investment and the adverse impact on local rates created by placing an end user charge on each Centrex line. The text of the *Reconsideration Order* makes clear, however, that while our assessment of the problem differed from theirs, the information they provided influenced our decision to offer Centrex-CO customers a more gradual transition then that prescribed for other business customers. *See id.* at paras. 44, 47–49. Ameritech claims that with respect to intercom lines, imposition of an end user charge is inconsistent with the jurisdictional division of regulatory authority defined by the Communications Act.[21] This is nothing more than a variation on the arguments which we repeatedly rejected at earlier stages in this docket that our access charge plan is an intrusion into state ratemaking authority. *See Access Charge Order* at paras. 56–62, *Reconsideration Order* at para. 202.

39. Some petitioners claim that a per line charge on Centrex-CO systems ignores the fact that the average unseparated cost per Centrex-CO line is less than the average unseparated cost of all subscriber lines.[22] This may or may not be true. The *Separations Manual*, however, allocates loop costs between the interstate and intrastate jurisdictions based on the average cost per loop and the number of loops in use in a telephone company's study area.[23] Thus any overallocation of loop costs to one category of loops or group of subscribers occurs during the separations process. As the *Access Charge Order* and our rules make clear, we have taken the interstate revenue requirement for subscriber loops that results from applying the procedures prescribed in the *Separations Manual* as given, and have focused in this docket only upon the recovery of the share of those costs assigned to the interstate jurisdiction. *See Access Charge Order* at para. 259; 47 CFR 69.104(d). That share is the same for each loop in the study area, regardless of its length or the original cost of installing a particular loop. Moreover, the access rules are based on average loop costs for all categories of subscribers. There are an infinite number of subscribers who will be paying end user charges and who could also make the argument that they cause fewer costs to be assigned to the interstate jurisdiction than do other subscribers. There is simply no practical way for the Commission to break down average subscriber loop costs for Centrex service without doing the same for other categories of subscribers.

40. None of the arguments that have been presented for treating Centrex-CO lines differently from other lines of multi-line customers at the end of an end user charge transition seems persuasive to us. However, we still believe that a lower initial charge is appropriate and will determine that charge in this proceeding.[24]

41. Our decision to use the residential line rate for 1984 end user charges for most Centrex-CO lines was not based upon a finding that residential and Centrex-CO customers are precisely alike. Our *Reconsideration Order* found that imposition of a $6 charge for such lines would create an undue risk that many Centrex-CO customers would abandon Centrex-CO service before state commissions can correct distortions in their rate structures that would affect competition between Centrex-CO and PBXs. We found that a $2 charge should be low enough to avoid that result. If that assumption is correct, we should retain an initial charge of $2 for such Centrex-CO lines even though the initial charge for residential lines will be zero.

42. Several petitioners claim that an initial charge of $2 is too high to prevent effects that should be avoided.[25] Such petitioners assert that existing customers will abandon Centrex-CO because they cannot expand their systems except at substantial cost to themselves and that new customers will reject it as not being competitively priced. Consequently, they claim the Commission's plan will encourage creation of stranded investment and higher intrastate rates because the transition provided is too short for either states or subscribers to respond rationally. We disagree with petitioners' analyses.

43. This Commission made the decision to grant current Centrex-CO customers a more generous transition to cost-based rates than other business customers in part to enable state commissions to reevaluate intrastate Centrex-CO rates that might not be based on the associated intrastate revenue requirement. *See Reconsideration Order* at para. 48. We

causation to be unwarranted. For this reason we deny the request of BellSouth and GSA that End User Common Line charges for ESSX lines be based on the number of network access registers a customer obtains.

[20] *See* Northwestern petition at 9–20.

[21] *See* Ameritech petition at 2.

[22] New York City offers a similar cost argument to support reduced Centrex rates. It argues that since Centrex lines are not used for interstate calls, either because they are restricted or because of the nature of the Centrex customer's business, they have contributed much less than other lines to the SLU on which the interstate share of their costs has been based. The City reasons that since they contribute less to the interstate cost allocation, they should pay less. *See* New York petition at 5–6.

[23] *See Separation Manual* at para. 23. 44.

[24] Appropriate Centrex-CO line charges for subsequent transition years will be determined in the supplemental proceedings which will reexamine transitional end user charges for all customers including multi-line business. We expect that the charge for Centrex-CO lines that are subject to a $2 initial charge will not exceed $3 in the 1985–86 access period.

[25] *See, e.g.* petition of American Hospital Association at 5 and of Southwestern Bell at 3 and replies of New York City at 2 and of NYNEX at 3.

also indicated that we would consider changes proposed by a Joint Board to the separations process or other solutions if it appeared that state commissions could not act to avoid adverse effects upon residential customers arising from a cost-based charge for Centrex-CO customers. *Id.* Petitioners claim that the likelihood of responsive state action is too remote and uncertain to forestall most customers' decisions to abandon their Centrex-CO systems in the next few years. Several repeat their claim that state rates for Centrex-CO already recover the full unseparated costs of most, if not all, of the Centrex-CO lines, adding that the state commissions cannot correct the Centrex-CO rate imbalance without increasing other rates in a manner that will endanger universal service. They conclude that Joint Board relief will be too little, too late.

44. We find it to be still premature to conclude that state commissions cannot respond appropriately to the challenge posed by our decision to require cost-based pricing for all subscriber loops, including those used for Centrex-CO service. For some Centrex-CO customers the charges they may now face arise from rate structure imposed on the service at the state level that does not reflect intrastate costs and it is at the state level that this problem should be addressed.

45. Several petitioners have asserted that our transitional treatment of Centrex-CO lines is premised on faulty assumptions that, if corrected, would lead to our accepting the PBX trunk equivalency formula for determining a Centrex-CO subscriber's total monthly charge.[26] These alleged faulty assumptions include our belief that the states can react to our decision in time to prevent the demise of Centrex-CO.

46. Petitioners assert that customers' abandoning Centrex-CO service will result in unused plant the costs of which must still be recovered from ratepayers. Predicting wholesale abandonment of the service because of the per line end user access charge, they estimate these costs will be substantial. This, they conclude, will threaten universal service by compelling increases in local telephone rates. While some petitioners claims must be classified as unsupported speculation, some petitioners leave the realm of speculation and offer estimates of the revenue loss or financial impact that would result if most Centrex-CO customers replaced this service with PBXs.[27] The analysis offered by these petitioners is flawed in several ways. As NATA notes in its opposition to these petitions, at least some of the abandoned plant would be used to link the PBXs of former Centrex-CO customers to the central office.[28] ROLM adds that testimony in state proceedings indicates that much Centrex-CO investment can be reused in other local service.[29] It also asserts that petitioners' predictions fail to include as a factor the general growth in the demand for telecommunications services in most markets. We conclude that petitioners may have overstated the amount of investment that would be truly stranded, i.e., unusable. Petitioners analyses suffer from two more substantial flaws as tools for estimating the impact of Centrex-CO rate increases on universal service. First, they appear to ignore the fact that Centrex-CO customers are as a practical matter unable to abandon Centrex-CO overnight. The American Hospital Association and ICA indicate that it would take most Centrex-CO customers at least three years to implement a decision to abandon Centrex-CO.[30] That would be three more years to recover the costs of plant now dedicated to Centrex-CO service from Centrex-CO users directly. An even more serious flaw in their analyses is the tacit assumption that state regulators would permit telephone companies to recover the costs of the "stranded investment" through a uniform surcharge on all classes of subscribers, an unlikely result in light of the shared concern about endangering universal service.

47. In the *Reconsideration Order* we stated that we would ask the Joint Board established in CC Docket No. 80–286 to help us identify the nature and extent of any indirect effect on local rates and to develop solutions to that problem that state commissions (or this Commission) might adopt to prevent adverse effects on local residential rates. Nothing in the petitions convinces us that there is a threat to universal service so substantial and so imminent that we must depart from this approach to solving any problems created by responses to the Centrex-CO end user charge we have prescribed.

48. The American Hospital Association (AHA) requests that we permit telephone companies for at least three years to use a PBX trunk equivalency of 15 to 1 in computing end user charges for hospitals subscribing to Centrex-CO. It asserts that failure to grant its request will impose an undue hardship upon these hospitals and on those dependent upon them for vital services. AHA claims that both state and federal governments have recently placed extraordinary pressures on them to hold down the costs of hospitalization.[31] It notes that recent federal legislation modifies Medicare in such a way that they are compelled to keep all hospital costs as low as possible. It notes that for hospitals particularly, the length of time required to abandon Centrex-CO is greater than most because, as a general rule, they must obtain a certificate of need from state and/or federal agencies before they can begin to consider replacing their Centrex-CO systems with a PBX. AHA believes these factors justify the special treatment it requests.

49. We recognize the valuable services that a hospital provides to the community it serves. This alone does not warrant the general exemption they request, however. We find the better alternative to be for the state commissions to consider reducing the intrastate Centrex-CO service charge for such institutions, particularly in those areas in which the Centrex-CO charges paid by these hospitals may be subsidizing other intrastate service offerings of their telephone company. The state commission is in a better position than we to determine whether undue hardship exists in an individual case. Its decision to grant rate relief for hospital subscribers to Centrex-CO service would also result in shifting costs from them to the members of the community they serve, a more appropriate allocation of costs than could be achieved at the federal level.[32]

[26] *See, e.g.*, petitioners of Bell South at 6 and of GSA at 3; Memorandum attached to Massachusetts petition at 10–11.

[27] *See e.g.*, Bell Atlantic petition at 3; Northwestern Bell petition, Exhibit B at B3; Southwestern Bell petition at 5; Pacific Telephone petition at 5.

[28] NATA opposition at 20.

[29] ROLM and NATA cite testimony in a proceeding before the Wisconsin PSC in which Wisconsin Telephone Company, an Ameritech affiliate, took the position that central office equipment can be 100% reused and that outside plant is 80% reusable. ROLM opposition at n. 17.; NATA opposition at n. 10.

[30] AHA petition at 8–9; ICA petition at 2.

[31] These pressures have also been noted in the petition filed by the Massachusetts commission and in letters from Congressmen.

[32] We note that an analogous set of concerns has been raised in informal comments filed by orphanages, which claim that the telephone service which they receive is presently classified in local tariffs as business service, and not residential. They argue that much of their telephone service is used by the children residing in the orphanages no differently than residential service. If the service remains classified as business, they claim that because of limited budgets the business end-user charges would be difficult for them to sustain. As is the case of service to hospitals, we believe that the states might best address whether relief might be granted to orphanages, by reclassification of their service or otherwise.

50. In summary, we find that while more detailed, the arguments described in the preceding paragraphs remain essentially the same as those presented in the filings that preceded the *Reconsideration Order*. As we explained in that *Order*, our purpose in providing current Centrex-CO customers with a transition plan more generous than that given other business customers was only to delay the full impact of the new rate structure until state commissions could reevaluate the rate structures for Centrex-CO services they have adopted or approved and to allow time for the Joint Board to study this subject. *Id.* at para. 47. We permitted telephone companies to charge their Centrex-CO customers at reduced rates only to enable them to maintain Centrex-CO Service while state commissions and the Joint Board made that reevaluation. Insofar as it created a discrimination between rates charged Centrex-CO customers and other business customers we could find it reasonable principally because it was necessary to prevent Centrex-CO customers from abandoning the service before the reevaluations could be completed. This rationale cannot be extended, however, to justify reduced rates for lines that were not in use or on order once we had removed any doubt concerning the way we intended that telephone companies compute end user charges for subscriber lines used to provide Centrex-CO services. We also find no justification for a reduction in the initial charge of $2 per line for Centrex-CO lines that were in place or on order on July 27, 1983. We do not anticipate that this rate would rise above $3 in the June 1985–May 1986 period.

IV. MTS–WATS Equivalent Services

A. Background

51. This Commission determined in 1971 that the public interest would be served by permitting companies other than the traditional telephone and telegraph carriers to offer interstate telecommunications services as common carriers and that telephone companies would be required to provide such other carriers (or "OCCs") with "local distribution" facilities.[33] AT&T subsequently refused to provide MCI with connections to local telephone company switches to enable MCI to provide Foreign Exchange ("FX") service and Common Control Switching Arrangements ("CCSA") service to its customers because it claimed that our *Specialized Carrier* decision did not authorize MCI to provide those services. This Commission ordered AT&T to provide such facilities.[34] Open end access for FX and CCSA services and local exchange service are provided through "lineside" connections to a local switch while "trunkside" connections are used for MTS trunks. MCI designed a service called Execunet that used line side connections to provide a service that is switched at both ends. This Commission's decision holding that MCI was not authorized to provide such an "MTS–WATS equivalent service" was reversed in *MCI Telecommunications Corp.* v. *FCC*, 561 F. 2d 265 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978) (*"Execunet I"*).

52. MCI paid the telephone companies the same rates for MTS–WATS equivalent access that FX and CCSA customers paid for open end access while the *Execunet I* litigation was in process. We instituted this rulemaking proceeding a few weeks after the Supreme Court denied a petition for writ of certiorari in the *Execunet I* case. The proceeding was designed in part to determine the access charges that should be paid for MTS–WATS equivalent services.

53. Shortly after we instituted this proceeding AT&T filed a tariff that would have established access charges for the MTS–WATS equivalent services of the OCCs that were much higher than the FX–CCSA open end access charges the OCCs had been paying. AT&T claimed that the charges were computed to establish parity with the access compensation that it paid for MTS and WATS access through the settlements and division of revenues processes. The OCCs contended that the tariff should be rejected because it would create unlawful discrimination between charges for MTS–WATS equivalent access and the charges for identical access arrangements that were provided to FX and CCSA customers. The OCCs also claimed that the proposed charge did not establish an adequate differential for qualitative differences between the interconnection arrangements for MTS and WATS and the interconnection arrangements that were provided for the MTS–WATS equivalent services and that the abrupt and drastic increase in their access costs would destroy emerging competition in interstate telecommunications services.

54. That tariff never became effective. AT&T deferred the effective date in order to conduct negotiations with the OCCs under FCC auspices to develop an interim formula for access charges for MTS–WATS equivalent services. AT&T, GTE and some of the OCCs entered into an agreement, commonly known as the ENFIA agreement, which did establish such an interim formula. That agreement provided that the formula would be used until this Commission or the Congress establishes a system of access charges or until the fifth anniversary of a Commission order approving the ENFIA agreement. This Commission adopted such an order on April 15, 1979.[35] At about the same time we adopted a *Supplemental Notice* reaffirming our commitment to establish a system of access charges for all interstate and foreign services in this docket.[36]

55. After issuing some further supplemental notices and receiving several rounds of comments relating to access charges and other subjects, this Commission adopted the *Access Charge Order*. That *Order* included rules for the computation of access charges for MTS–WATS equivalent services that would replace the ENFIA charges. In the meantime AT&T and the OCCs had conducted intermittent negotiations in an effort to develop OCC access arrangements that would more closely match the access arrangements that are used for MTS and WATS. Although no agreement was reached, AT&T did introduce alternatives known as ENFIA B and C that provide some but not all of the additional features that are provided for MTS or WATS access. The original FX type of access arrangement is now known as ENFIA A.

56. OCC access arrangements were also addressed when AT&T entered into a January 1982 agreement with the Department of Justice to settlement a pending antitrust case through the entry of a consent decree. That decree or *Modification of Final Judgment ("MFJ")* was subsequently entered by the United States District Court for the District of Columbia with certain modifications.[37]

[33] Specialized Common Carrier Services, 29 FCC 2d 870 (1971), *aff'd sub nom.* Washington Utilities and Transportation Commission v. FCC, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975). The term "access service" has been used in this proceeding to describe the origination and termination of interexchange telecommunications by telephone companies. The term "local distribution" was used in Specialized Carrier and other decisions to describe the same activity.

[34] Bell System Tariff Offerings, 46 FCC 413 (1974) *aff'd sub nom.* Bell Telephone Co. of Pennsylvania v. FCC, 503 F. 2d 1250 (3rd Cir. 1974), *cert denied*, 422 U.S. 1026 (1975).

[35] Exchange Network Facilities (ENFIA), 71 FCC 2d 440 (1979).

[36] Supplemental Notice of Inquiry and Proposed Rulemaking, 73 FCC 2d 222 (1979).

[37] United States v. American Telephone and Telegraph Co. 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983).

The *MFJ* requires that the divested Bell Operating Companies (or "BOCs") provide access for the OCCs that is equivalent to the access provided for MTS and WATS. The BOCs must begin to introduce such "equal access" by September 1984 and must provide equal access in all of their exchanges by September 1, 1986.[38]

57. We concluded in the *Access Charge Order* that a differential should be established between OCC access charges for MTS–WATS equivalent services and access charges for MTS and WATS during the transition to equal access. We also concluded that the initial differential should be smaller than the existing differential under the ENFIA agreement because some of the factors that led us to approve the ENFIA agreement as an interim rough justice arrangement are no longer relevant. In particular, we noted that the access charge plan would eliminate disparities in MTS and FX access compensation that partially justified the use of an intermediate rate for MTS–WATS equivalent services.

58. In the *Access Charge Order* we decided that a differential should be established by assessing a premium access charge upon the carriers that provide MTS and WATS in order to reflect the opportunity cost of premium access. We concluded that premium access is of substantial value to any carrier receiving it in view of the fact that only one carrier can be provided with premium access at this time. We also concluded that this premium value will necessarily decline during the conversion to "equal access" and that the premium access charge should, therefore, be reduced in phased steps. We decided to use the interstate CPE costs that will be declining by 25% per year during the 1984–87 period as a basis for computing the premium access assessment.[39]

59. On reconsideration we concluded that applying different weights to premium and OCC access minutes for purposes of calculating Carrier Common Line charges would provide a better mechanism for reflecting the value of premium access. We decided that the OCC minutes should be multiplied by .65 for purposes of computing the 1984 Carrier Common Line charges. The *Reconsideration Order* described several factors that led to the selection of this 1984 factor. We noted that the "transitional impact on the OCCs of a reduction in the differential that presently exists under the ENFIA tariff" is a factor to be considered and concluded that a 35% Carrier Common Line differential should "enable OCCs to compete for customers successfully" even though it is smaller than the ENFIA differential. *Id.* at para. 97. A discount factor of 45% is presently used to compute the ENFIA Element 3 charge for the use of non traffic sensitive exchange facilities.

60. We concluded on the basis of the qualitative differences in interconnection for MTS and WATS and the MTS–WATS equivalent services that a 35% Carrier Common Line differential would provide a "reasonable measure" of premium value in 1984. *Id* at para. 104. We attempted to verify that conclusion by calculating a dollar premium by estimating the costs that AT&T would incur to provide MTS and WATS if it did not have premium access. We attempted to calculate both direct costs of offsetting the effects of inferior access arrangements and a price differential to reflect the residual inferiority that cannot be avoided through alternative measures. We found that we could not make precise calculations on the basis of the record in this proceeding and accordingly calculated a range of possible values. We estimated that the range of the opportunity cost of premium access would be $1,673 million to $2,779 million. Preliminary estimates of the 1984 Carrier Common Line revenue requirement indicated that the 35 percent differential for that rate element would result in a premium amount that is near the midpoint of that range.

61. We decided to revise the schedule for phasing out the premium to conform with the *MFJ* schedule for the provision of equal access. Under the revised schedule the .35 differential would be reduced to .23 for 1985, .12 for the period from January 1 to August 31, 1986, and to zero thereafter. *Reconsideration Order* at para. 106.

B. Further Reconsideration Petitions

62. Petitions, letters and other presentations of various OCCs vigorously dispute the assumption that a 35 percent Carrier Common Line differential will produce a smooth transition from the current ENFIA differential that will not threaten the viability of interexchange competition. The ENFIA tariff imposes per line charges while the access charge rules require per minute charges. The OCCs note that the minutes per line factor that is used to compute the ENFIA per line charges assumes fewer minutes that a count of OCC ENFIA minutes will produce. Therefore, the current total differential for all three ENFIA elements is considerably larger than the differental that a 45 percent discount for ENFIA Element 3 would produce. The estimates of the current total differential for all access elements in the petitions range from 57.5 percent (Allnet) to 65–75 percent (Satelco and Lexitel). These petitioners also note that the total differential that would be produced by the application of a .65 factor for purposes of computing OCC Carrier Common Line charges will not produce a total differential of 35 percent because the OCCs will also be paying access charges for the traffic sensitive elements. Their estimates of the total differential for all elements under the *Reconsideration Order* range from 20.5 percent (Allnet) to 26.3 percent (U.S. Telephone).

63. Although MCI estimates that it would have made a small profit in 1983 if the *Reconsideration Order* had been in effect, most OCCs claim that they would have incurred substantial losses and would expect to incur losses in 1984. Some petitioners imply that some existing competitors in the interstate market will discontinue operations if we decline to increase the differential between AT&T and OCC access charges. Similar concerns with respect to the competitive effects of an abrupt change in the differential have been expressed in comments filed by the National Telecommunications and Information Administration (NTIA) and the Department of Justice (Justice). NTIA and Justice observe that the reduction in the differential could have the effect of eliminating competition in the few years before equal access becomes available. Justice concludes that "the possible costs of increasing OCC rates too quickly appear to outweigh the probable costs of increasing the rates too slowly" (Justice Comments at 11). Although Justice says that the competitive effects of a change in the differential cannot be predicted with certainty (Comments at 2), it favors a 1984 differential that is "large enough so that there is no substantial change in the present differential between OCC and AT&T per minute charges."

64. In opposition, AT&T contends that the abruptness of the change should not be a relevant factor in our decision. AT&T says that "to the extent the premium exceeds any legitimate opportunity cost, the premium will subvert the normal play of market forces, artificially raising the prices to

[38] The *MFJ* permits waivers of this requirement under certain conditions.

[39] The interstate CPE amount has been fixed for periods from January 1, 1983, through December 31, 1987, through the adoption of a separations plan for the phased reduction of the interstate amount. See Amendment of Part 67 of the Commission's Rules, 89 FCC 2d 1, *modified*, 90 FCC 2d 52 (1982).

AT&T's customers while diverting traffic to less efficient carriers" (Opposition at 5–6). It claims that the ENFIA differential has always been excessive and that the change in the differential would not be abrupt if we had adopted the minutes per line factor that AT&T advocated in prior proceedings.

65. AT&T also asserts that we should discount OCC claims of injury. AT&T alleges that OCCs have misrepresented the effects of past increases in ENFIA charges. AT&T says that some of the OCCs claimed in 1982 that an ENFIA charge in the $200–275 per ENFIA line range "would 'seriously impair' or 'totally eliminate' the OCC industry," but that OCC revenues and profits increased after the ENFIA charges were increased to that range. (Opposition at 11).

66. Seven OCCs, Combined Network (Allnet), GTE Sprint, Lexitel, MCI, SBS, USTel and USTS, argue that the opportunity cost computation in the *Reconsideration Order* understates virtually every opportunity cost element that was calculated. Their estimates for those elements range from $3.9 to $9.3 billion. MCI claims that another $2 billion should be added for elements that we failed to consider in the *Reconsideration Order*. AT&T claims that the *Reconsideration Order* overestimated the value of the elements that were considered. It has recalculated the same elements of opportunity cost to produce a range of values from $.82 to $1.16 billion.

67. NTIA states that the OCC petitioners have identified some "obvious deficiencies" in the *Reconsideration Order* computations, but that the enormous differences in the OCC opportunity cost estimates raise "serious doubts" that any method of computing opportunity costs will be adequate. (Comments at 5). NTIA says that "our own best estimate of the premium—using the Commission's method and the data submitted by petitioners—is so tentative and subject to such wide error that we believe the Commission ought to abandon the whole enterprise and use the ENFIA rate as the basis for starting the transition * * *." (Comments at 6).

68. A subsequent letter from David J. Markey, Assistant Secretary of Commerce for Communications and Information, clarified the NTIA proposal. That letter states that NTIA is not advocating an ENFIA freeze. NTIA would not use the existing ENFIA differential for 1984 charges. It proposes equal phased reductions from the existing ENFIA differential during the transition to equal access at an equal price and would implement the intitial reduction in the differential in 1984.

69. AT&T contends that it would be unlawful to use the existing contractual differential in the future. AT&T argues (Reply at 6):

> It is not the increase from low contractual rates—rates that were depressed as a result of OCC deception and misrepresentation—that must be justified. It is the failure to prescribe a rate structure under which AT&T and the OCCs pay identical rates that must be justified, as the Commission has attempted to do with its opportunity cost analysis.

70. Several petitioners have suggested that we revise the schedule for phasing out the differential. Some contend that the differential should not be reduced to zero on September 1, 1986, because the BOCs are unlikely to meet the *MFJ* deadline (SBS Petition at 17–18; U.S. Telephone Petition at 8). Others note that the independent telephone companies are not subject to the *MFJ* equal access requirement and that this Commission has not completed its proceeding to determine the access arrangements that the independents should be required to provide (Joint Resellers Petition at 12). Some suggest that the phaseout of the differential should be extended beyond the point that equal access is achieved in order to compensate for marketing handicaps that OCCs must overcome in competing with AT&T (see *e.g.*, USTS Petition at 26–27).

71. Some petitioners have also questioned the assumption that premium value will decrease by one-third by the 1985 calendar year. Lexitel notes that progress to equal access during 1984 may not be substantial (Petition at 30). USTS says that OCCs are likely to experience severe marketing handicaps during the conversion period because some OCC customers in a service area will have equal access facilities and some will not. (Petition at 27–28).

72. AT&T opposes requests to revise the schedule for phasing out the differential. It claims that equal access will be sufficiently universal by September 1, 1986 (Opposition at 22–23). Justice says that it does expect some exceptions to the *MFJ* requirement for equal access in September 1986 and believes that it would be appropriate to extend the phaseout through August 1987 (Comments at 17).

73. AT&T asserts that any exceptions to the *MFJ* requirement that equal access be offered in all BOC exchanges will probably be limited to small, electromechanical offices that "the OCCs have historically had little interest in serving" (Reply at 11–12). AT&T contends that it is important to establish "a defined and certain end to the premium." *Id.* at 12.

C. Discussion

74. We still believe that optimal results would be achieved by establishing a differential between access charges for MTS–WATS and access charges for MTS–WATS equivalent services that is equal to the opportunity cost of premium access. A larger or smaller differential would distort the competitive marketplace in interstate telecommunications. An excessive differential could stimulate imprudent or unnecessary investment by existing or new OCCs by generating profits that could not be sustained with equal access at an equal price. A differential that is not sufficient to offset the effects of unequal access could eliminate or at least weaken competitors before equal access arrives.

75. Our decision to defer a substantial portion of the end user charges until mid-1985 increases the risk that an inadequate differential would have an adverse effect upon interexchange competition. Any differential would be applied to a larger revenue requirement. If we retained the *Reconsideration Order* formula for the computation of the OCC charges the total OCC charge per access minute would be increased by over 1.3 cents per access minute. Even if OCC claims that the *Reconsideration Order* would have a devastating effect upon them are somewhat exaggerated, retention of the *Reconsideration Order* formula with an increased Carrier Common Line revenue requirement would pose a real threat to the survival of many of the existing competitors.

76. The probable length of the transition is a relevant factor in selecting an appropriate transitional differential. If the rate differential is going to disappear or diminish substantially in the relatively near future, an excessive differential is much less likely to distort investment decisions.[40] Investments in the provision of MTS–WATS equivalent services will probably be based upon an analysis of OCC prospects under conditions of

[40] Although OCCs may choose to use line side connections for some services after equal access becomes available, that choice would not affect the disappearance of a differential in rates that reflects the premium value of access that is not available to competitors. An OCC that elects to use a lineside connection when equal access is available will pay a premium rate for the lineside connection. Such an OCC would, however, pay a lower premium rate for Local Switching to reflect differences in switching costs. We will assume that Feature Group D represents equal access in the absence of a contrary finding.

equal access at an equal price rather than current revenues or profits that reflect a transitory differential in access charges. An insufficient differential during such a period would, however, be likely to have consequences that are very detrimental to the public interest. It would undermine the OCC's ability to compete at the time opportunities are presented by equal access at an equal price.

77. In these circumstances we would have to be very certain that our prior estimate of premium value is correct in order to retain that formula. We have received extensive comments from many interested parties on the appropriate amount of the differential between access charges for MTS–WATS on the one hand and access charges for MTS–WATS equivalent services on the other. We still believe that, in general, we correctly identified the various factors that should be considered in placing a value on premium access. See *Reconsideration Order* at paras. 104–104, 109–125. However, examination of the comments has convinced us that it would be virtually impossible to place an accurate dollar amount on these factors at this time. The parties have submitted detailed estimates of what they believe to be the appropriate value that we should attach to each of the elements that make up premium access. These estimates vary tremendously, and we can see no way to determine which, if any, of those estimates are more accurate than the others. Our review of the new material contained in the further reconsideration petitions does, however, convince us that the original estimate was not sufficiently precise and that the premium value is larger than our $2.2 billion estimate. We agree with NTIA's conclusion that it is impossible to determine a precise premium value. Therefore, we have decided to adopt NTIA's suggestion that we abandon the effort to calculate premium value and establish a total differential for all relevant access elements that is related to the total differential that is produced by the current ENFIA rates.

78. We have decided that we should not retain a fixed termination point for a differential in access prices because it is not possible to predict when, or even if, equal access will be available in every exchange that an OCC may choose to serve. A series of proceedings would probably be required to reevaluate differentials for future years if we retained a composite differential that assesses the same rate for equal and unequal access during the transition. Such repetitive proceedings can be avoided by establishing separate charges for equal and unequal access. This approach will produce a composite differential between total access expenses for OCCs and total access expense for carriers that provide MTS and WATS that does reflect the progress toward equal access at a particular time. It will also more accurately reflect the access which a particular OCC receives. A nationwide composite rate that is applied to all OCC access may not reflect relative advantages or disadvantages of particular OCCs that serve different geographic areas.

79. OCCs that receive equal access will pay the same per minute charges that are assessed for MTS or WATS usage as equal access becomes available in each end office.[41] Access charges in end offices not yet converted to equal access shall continue to be assessed at a non-premium rate.

80. If equal access is available but the OCC does not elect to use it, the OCC will normally pay the equivalent of the subelement 1 charge for Local Switching that is described in Section 69.107 and the full equal access charge for other elements. Local Switching charges were designed to reflect cost differences and the transition rules will preserve that differential. We will not, however, require such an OCC to pay the equal access charges for unequal connections if the exchange carrier fails to provide notice that equal access would be available at least six months before such access becomes available.[42] If the exchange carrier fails to provide such notice, the OCC may pay the lesser charge for access that is not an equal access connection until the expiration of a six month period after it in fact receives such notice.

81. We concluded in the *Reconsideration Order* that it would be desirable to avoid an abrupt change from the present ENFIA differential in establishing an initial differential under the access charge rules. We still believe that this is an important consideration.

82. NTIA proposed that we reduce the current ENFIA differential by equal proportions in the years that remain until equal access is achieved. The NTIA proposal assumed a composite rate for equal and unequal access received by OCCs that could be established by using a differential that equals three-fourths of the current ENFIA differential in the first year, one-half of the current differential in the second access charge year and one-fourth of the current differential in the third period. Although we have decided to depart from the composite rate approach, we find considerable merit to the suggestion that we establish an initial differential that is about three-fourths of the existing differential. Such an initial differential should still produce a reasonably smooth transition under the transition procedure we are adopting in this *Order*.

83. Most petitioners estimate that the existing differential for all relevant access elements is about 70 percent. Therefore, a differential of 52.5 percent would be about three-fourths of the existing differential. The use of a .475 factor to compute a non-premium charge for each relevant access element would produce a 52.5 percent differential between premium and non-premium charges.

84. The use of a .475 factor for the computation of non-premium charges would not, however, produce a composite differential of 52.5 percent during the first access year because the OCCs will be receiving equal access connections in some BOC switches during the latter part of that period and will be paying the premium rate for such usage. A modest adjustment in the factor for computing non-premium charges should be sufficient to produce a composite differential of about 52.5 percent during an April 1984-March 1985 period. We estimate that a .45 factor would produce that result.

85. Although the use of a .45 factor to compute per minute charges would produce a smooth transition for most OCCs, that procedure would produce a very abrupt increase in access costs for those OCCs who happen to have usage per line that substantially exceeds the industry average. We have accordingly decided that per minute charge for unequal access should be converted to a charge per line.

86. The use of a per line charge might arguably disadvantage new entrants that will not immediately achieve usage levels that approach the relevant minutes per line factor. Past experience with the ENFIA tariffs, which have always used per line charges for all elements, indicates that per line charges do not create a significant entry barrier.

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[41] Here equal access is assumed to include such transport and intermediate switching as may be necessary to provide equal access to the OCC point of presence.

[42] Six months will be sufficient to enable OCCs to respond to the opportunity for equal access. We recognize that there may be some problems determining the availability of equal access for an OCC and the appropriate interrelationship between notice of availability and the ordering provisions in exchange carrier tariffs. Since we do not know the extent or the scope of these potential problems, we have not attempted to provide specific guidelines. However, we expect the access charge tariffs to address these questions and will carefully review the tariff provisions.

A number of carriers have entered the market while the ENFIA tariff has been in effect and most have apparently succeeded in achieving average usage levels fairly quickly. Any minimal disadvantage that new entrants might experience is outweighed by the administrative costs that carriers would be likely to incur. The comments of U.S. Telephone filed on January 23, 1984, note that "usage sensitive billing for a lower cost unequal access will require different networking configurations than usage sensitive billing for equal access." It would be wasteful to require arrangements that could not be used for equal access in view of the interim nature of these non-premium charges. Moreover, the inclusion of options would make the preparation of revised tariffs more difficult and could frustrate our desire to make initial access charges effective by April.

87. We have decided that a 9,000 minute per line factor should be used for purposes of computing the initial monthly per line charge. Comments submitted by the CSO and BOCs in the access charge tariff investigation contain an estimate of average OCC usage per line of 8,459. That estimate was based on data provided by OCCs for the 1983 Recalculation of ENFIA minutes. Since average OCC usage per line has tended to increase over time, current average usage per line is likely to be higher than the average usage at the time of the 1983 Recalculation. A 9,000 minutes per line factor should reasonably approximate the current average usage per line for all OCCs. A 9,000 minutes per line factor is also supported by traffic studies cited in Appendix A of the MCI petition for reconsideration. A hypothetical premium charge per access minute for the Carrier Common Line, Line Termination, Local Switching, Intercept and Transport elements will be mulitplied by 4.050 (or 45 percent of 9,000) to compute the per line charge that will be used through May 31, 1985.

88. In order to implement this method, we will require all exchange carriers to permit any OCC to order connections upon a per line basis prior to the introduction of equal access. We also rescind the waiver of the transport access charge rules (*see* FCC 83-287, released June 28, 1983) to the extent necessary to implement this transition plan and extend that waiver through May 1985 to the extent that is not rescinded.

89. An annual revision of the per line charges that is based upon the application of the factors that are used to compute the initial charges might not produce a smooth transition. In order to avoid abrupt changes in OCC charges for access we will direct the exchange carriers to compute charges for the period beginning June 1, 1985, by revising the initial per line charge to reflect changes in the Consumer Price Index ("CPI") during the 1984 calendar year. A reduction in the 1985-86 charge might be considered in light of the transition plan we adopt for end user charges in the supplemental proceeding.

90. We plan to institute a proceeding in 1985 to determine whether a different procedure should be used to compute a non-premium charge for the OCC MTS-WATS equivalent services in subsequent access years.[43] A reevaluation of the procedures for computing such charges may be apropriate for several reasons. The CPI adjustment formula might produce a non-premium access differential that differs from our expectations. It may be necessary to reevaluate the differential if the progress to equal access does not correspond with our present expectations. We also wish to ascertain that the rates are moving toward costs.

91. Although we recognize that there are some differences between OCC access arrangements that are described as Feature Groups A and B in the National Exchange Carrier Association tariffs, both of these options constitute inferior access and we have no basis for determining a different differential for these feature groups. For this reason, both shall be assessed the non-premium charge.

92. We find that the revised premium assessment procedures that we are adopting in this *Order* should produce reasonable transition rates and will achieve equitable results that are consistent with the goals of the Communications Act.

V. FX and WATS Lines

A. FX, CCSA and CCSA Equivalent Services

93. The transitional premium differential has been designed to compensate for the advantage that providers of MTS and WATS services enjoy vis-a-vis providers of MTS-WATS equivalent services because equal access is not presently available for the provision of an MTS-WATS equivalent service. Some of the same facilities are used, however, for the provision of services that are neither MTS, WATS nor MTS-WATS equivalent services. For example, an FX service uses the local exchange switch and the subscriber line that is used for MTS, MTS-WATS equivalent and open end WATS service in order to originate or terminate an FX call at the open end.

94. Inasmuch as the differential was designed to reflect the higher quality access available to the providers of MTS and WATS, any premium differential should be reflected in the access charges for those services. The mechanism that we adopted in the *Access Charge Order* would have accomplished that result by assessing a lump sum premium to the providers of MTS and WATS and assessing equal per minute charges for all services that use a common line. We had proposed to apportion that premium assessment to MTS and WATS in a revision of the Interim Cost Allocation Manual that was proposed before we adopted the *Reconsideration Order* in this proceeding. We did not propose to apportion any of the premium assessment to other AT&T services such as FX that also use local exchange subscriber lines.

95. When we adopted the *Reconsideration Order* the premium assessment was converted to a differential factor. The revised § 69.205(a) read as follows:

> (a) In 1984 Carrier Common Line charges to carriers that do not receive premium access shall be computed by multiplying the access minutes of use of such carriers by .65.

96. A literal interpretation of that language would lead to the conclusion that the .65 factor was to be applied to all OCC usage including open end access for FX, or CCSA or similar services offered by OCCs and that no discount factor was to be applied to any service, including FX, CCSA or a similar service, that is offered by a provider of MTS or WATS. Such a result does not reflect our intent.

97. The revised rules that we are adopting in this *Order* will establish a non-premium rate for FX-CCSA Open End access. If the FX line or CCSA ONAL terminates in an end office switch that does not have the capability to provide equal access for an MTS-WATS equivalent service the carrier that provides the FX or CCSA service or an end user that orders a line for the purpose of receiving such a service will pay a non-premium rate. If the switch does have equal access capability, the carrier or end user will pay the applicable premium access charges for lineside connections. This method of pricing FX-CCSA Open End access will maintain parity between FX and CCSA customers and customers of MTS-

[43] The CPI formula will, however, be used for the 1986-87 period if that proceeding has not been completed before the 1986-87 access charges become effective.

WATS equivalent services that often use identical interconnections.[44] This method of pricing should ensure that the premium assessment will be reflected in rates for services that enjoy a competitive advantage because premium access is not available for OCC MTS–WATS equivalent services.

98. Although we are establishing non-premium charges for FS–CCSA Open End access, we are not prescribing a per line charge for that purpose. Most users of such services probably do have very heavy per line usage, but FX service is also used by low volume users who happen to need a local number in another city. Such persons would be subjected to an unreasonable burden if they were required to pay a per line charge that is designed for OCC MTS–WATS equivalent services. Therefore, we have decided to require that the per line charge for non-premium OCC MTS–WATS equivalent service access be divided by 9,000 to derive an access minute charge for FX–CCSA Open End access.[45]

99. The ARINC petition apparently requests that initial access charges for open end FX access be established at a level that is lower than the access charges for MTS–WATS equivalent services in order to provide FX users with a more gradual transition from the existing charges. Although the *Access Charge Order* would have established parity between the FX–CCSA Open End and the MTS–WATS equivalent charges, we note that ARINC did not ask us to reconsider that decision in the prior reconsideration proceeding. The rules that we adopted in the *Access Charge Order* were designed in part to remedy the longstanding discrimination between rates charged FX and MTS users, thus satisfying one of the central purposes of this proceeding.[46] As early as the *Second Supplemental Notice* we presented a plan to establish parity between FX and MTS rates. 77 FCC 2d 224. The *Access Charge Order* achieved this parity in a way that differed somewhat from the plan described in the *Second Supplemental Notice*. That *Order* required that carrier's carrier charges,[47] including Carrier Common Line charges, be assessed in the foreign exchange for each minute of use that FX service made of that local network. Petitioners have not demonstrated that FX charges that are lower than OCC charges would be warranted.

100. In their petitions, Allnet and ETI ask us to clarify whether we intended to treat FX lines used to extend a reseller's service area differently from those FX lines used by other subscribers. The FX lines about which they inquire are used to carry traffic from the foreign exchange to the reseller's switch at which the call would be routed over the resold MTS/WATS or MTS/WATS-like facilities to its destination. ETI is concerned that our rules could be interpreted to foreclose the assessment of either a surcharge or carrier's carrier charges (other than special access) at the open-end of a reseller's FX line.[48] Allnet requests that we reach precisely this conclusion in order to spare resellers from paying full FX rates.[49]

101. We did intend that FX lines used by resellers be treated like any other FX lines. The adverse effects upon FX users, including resellers, arising from the revised rate structure for this service should have been anticipated for at least three years. We will deny these petitions insofar as they seek relief in addition to the restoration of parity between FX–CCSA Open End access and access service for the MTS–WATS equivalent services.[50]

B. WATS Access Lines

102. We have also decided that we should modify our rules relating to charges for closed end WATS in light of our December 1, 1983, to defer any changes in the separations treatment of WATS access lines until the Joint Board has given this matter further study.[51] The present access charge rules include both closed end WATS access lines and private lines in the Special Access category while the present separations rules include all interstate and intrastate WATS lines and all ordinary subscriber lines in the same separations category. The combined investment in that category is apportioned between jurisdictions through the application of the frozen Subscriber Plant Factor while investment in private lines is assigned directly to the state or interstate jurisdiction.

103. The use of inconsistent apportionment procedures could produce anomalous results that can be avoided by revising the access charge rules to apportion the interstate share of total WATS access line investment to the Common Line element and by assessing the same Carrier Common Line charges for interstate closed end WATS access minutes that are assessed to MTS and open end WATS access minutes.

104. This change will enable us to eliminate the surcharge on WATS closed ends because there will be no need for a surrogate charge inasmuch as WATS users, including WATS resellers, will already be paying the full carrier charges at the closed as well as the open end.

105. Inasmuch as WATS access lines and ordinary subscriber lines will be treated in the same manner for purposes of assessing the Carrier Common Line charges and WATS access line investment will be included in the Common Line revenue requirement, we shall treat such WATS lines like subscriber lines for purposes of assessing End User Common Line charges. A multi-line business rate end user charge will be assessed upon each interstate and intrastate WATS access line. Such charges will be applied to intrastate as well as interstate WATS lines because a portion of the investment in each intrastate WATS line in apportioned to interstate operations through the separations process.

106. Our decision to assign loop costs on a usage basis at the WATS closed end should not be interpreted as an abandonment of the principle that the cost of lines that are dedicated to interstate services including WATS closed ends should be recovered in a manner that is consistent with direct assignment. We endorse that principle as the most economically efficient approach for telecommunications

[44] The proceeding we plan to institute in 1985 to determine whether a different procedure should be used to compute non-premium charges for MTS–WATS equivalent access will also examine transitional charges for FX–CCSA open end access.

[45] Such access includes access for variations of CCSA service that are not described as CCSA in carrier tariffs. Since FX–CCSA open end access will presumably always use lineside connections, this measurement requirement is not being imposed for an interim arrangement.

[46] Currently, subscribers to interstate FX service pay a charge for the private line linking their premises to the central office at which the line terminates in the foreign exchange (the "open end") determined by the appropriate AT&T Tariff. They also pay charges to the foreign exchange carrier determined by the business line rate under its local service tariff. As a result, FX customers pay substantially less for each minute of use of the foreign exchange's local network than would an MTS customer or the customer of an OCC using that carrier's MTS-like service. In the *Access Charge Order*, we found the disparity between these rates violated Section 202(a) of the Communications Act and expressed our intent that the discrimination and undue preferences created by these disparities be eliminated without further delay. *Id.* at para. 51, n.20.

[47] Besides Carrier Common Line charges, FX service would incur charges associated with the following access elements provided in the foreign exchange: Local Switching, Line Termination, Intercept, Common Transport and Special Access.

[48] ETI petition at 3–5.

[49] Allnet petition at 13–15.

[50] This decision has the incidental effect of granting ETI's petition.

[51] That decision will be reflected in our decision in CC Docket 80–286 that was adopted on December 1, 1983. The text of that decision has not been released.

services. We have decided that this principle should not be implemented immediately for WATS closed ends because further study of the transitional impact of such a charge upon users and carriers is warranted. We expect to receive a supplemental recommendation from the Federal-State Joint Board in CC Docket 80–286 which will reflect such an assessment.

VI. Special Access Surcharges

A. Prior Proceedings

107. Throughout this proceeding we have sought to develop an access charge plan that balanced the potentially conflicting goals of the Communications Act in a rapidly changing telecommunications environment. This effort led to our presentation of a tentative access charge plan in the *Second Supplemental Notice of Inquiry and Proposed Rulemaking,*[52] our adoption of a substantially revised access charge plan in the *Access Charge Order* and our refinement of that plan in the *Reconsideration Order* and our decision to conduct further supplemental proceedings to reevaluate the transition process for end user charges. We have intended from the outset of this process that all the costs associated with providing access services for interstate and foreign telecommunications would be recovered through a comprehensive system of access charges established by Commission rules. The rules would define the customers from whom specific costs would be recovered and the rate structure under which such customers would be assessed charges to meet these costs. Consequently, changes in the costs assigned to or the associated rate structure for one group of customers would compel changes in costs assigned to and rates charged other groups. Perhaps no clearer example of this interplay can be found than the one offered by the evolving standards for assigning and recovering local network costs from interstate private line subscribers.

108. In the *Second Supplemental Notice* we discussed for the first time in this docket the phenomenon of the "leaky PBX." There we described the phenomenon as follows:

> Private lines can also be used to access local exchanges for the purposes of originating or completing long distance calls. Although private lines are generally described as dedicated, unswitched, point-to-point facilities, they frequently (perhaps even typically) originate or teminate at a private branch exchange (PBX) facility controlled by the subscriber. With a PBX, the private line subscriber has the capability to "patch" an interstate call to off-network destinations in the local exchange. At the local exchange such a call is indistinguishable from a local call, even though the call originated in another state. The off-network connection through the subscriber's PBX utilizes the telephone operating company's local exchange facilities in a manner similar to switched services, but somewhat more extensively. Thus, an interstate call going off-net from a local PBX would have to traverse two subscriber loops, would use station equipment at both ends of the off-net portion of a call, and would be switched from the line side to the trunk side of one local switch and then back from the trunk side to the line side probably at another local switch. While we believe that such off-net use of exchange plant by private lines is extensive, we are not aware of any statistics or measurements which would enable us to quantify such use or to assess the costs which should be attributed to private line service because of off-net local access. It appears reasonable to assume that such additional costs are sufficient to offset any cost savings in bypassing the local switch.

77 FCC 2d at 241 (footnote omitted).

109. The tentative access charge plan presented in the *Second Supplemental Notice* would have allocated non-traffic sensitive (NTS) costs among the private line service category and three switched service categories based upon relative holding time minutes of use. *See id.* at 240–42. The associated private line revenue requirement would have been recovered through an averaged, flat monthly per line charge, while the switched service categories charges would have been based on relative holding time minutes of use. *Id.* at 246.

110. Explaining the rationale behind the proposed allocation of costs, we stated:

> These differences between the various service categories, however, would appear to be far less significant than the basic similarities in their use of [NTS exchange plant, including NTS central office equipment]. In all cases, access is accomplished through the use of local central office facilities, subscriber loops and station equipment. Given these similarities, and given the fact that we cannot quantify any cost differences between the different access service categories, we believe that allocating the [NTS investment] * * * on the basis of holding time minutes is the most reasonable solution available to us in accomplishing our goal of achieving approximate parity among the various interstate services. Before adopting a final access charge plan, this Commission will, of course, consider any evidence presented by the participants in their comments that would demonstrate that the different access service categories use [this NTS plant] differently; that the costs associated with such differences can be quantified; and, that these costs differences should be taken into account in our access charge allocations. (footnotes omitted).

77 FCC 2d at 241–42.

111. Although that plan was designed in part to establish equal per minute charges for the use of all lines from the customers premises to an end office, it also assigned line termination costs to private lines that do not terminate in the local switch in order to provide a surrogate for leaky PBX usage charge. Our subsequent determination that all loop costs should be recovered on a per line basis did not make that part of the tentative plan moot. Nevertheless, we decided to refrain from including a leaky PBX surrogate charge in the *Access Charge Order* because we found that leaky PBX traffic would diminish as increased flat End User Common Line charges reduced the incentive to substitute private line service for MTS. *Id.* at 127. On reconsideration, however, we modified the access charge plan to provide a more gradual transition for residential subscribers to full end user common line charges. *See Reconsideration Order* at para. 6. With the reduction in costs to be recovered from residential customers during the early years of the access charge plan came a concomitant increase in the costs to be recovered directly through Carrier Common Line charges and indirectly through MTS rates. This change compelled us to reexamine our decision to impose no "leaky PBX" charge, because:

> Inasmuch as Carrier Common Line charges will be higher than anticipated as a result of the slowed transition to end user charges [to recover fixed costs], failure on our part to include leaky PBX users in the Access charge plan might actually prompt customers to rely even more on leaky PBX configurations to avoid message service rates which incorporate full access costs.

[52] 77 FCC 2d 224 (1980). The Second Supplemental Notice was only one of five notices issued by this Commission during the course of the proceedings in this docket that preceded the adoption of the Access Charge Order. The first Notice of Inquiry and Proposed Rulemaking, 67 FCC 2d 757 (1978), adopted in February, posed the general question whether services like MTS and WATS should be provided under a monopoly or competitive market structure. This was followed by the Supplemental Notice of Inquiry and Proposed Rulemaking, 73 FCC 2d 22 (1979), and the Second Supplemental Notice, in which this Commission posed questions about the regulatory policy that should determine market entry, including appropriate charges to interexchange carriers for the use of exchange facilities to complete their services. In the Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, 81 FCC 177 (1980), we concluded that a general policy of open entry in the domestic MTS/WATS market, including Hawaii, would be in the public interest. Finally in the Fourth Supplemental Notice of Inquiry and Proposed Rulemaking (Fourth Supplemental Notice), 90 FCC 2d 135 (1982), we sought comments concerning adjustments that should be made to the tentative access charge plan in response to industry changes caused by the imminent divestiture of the Bell Operating Companies from AT&T.

Id. at para. 80.

112. We noted that "leaking" was not confined to PBX users, however. Facilities-based carriers, resellers, sharers, privately owned systems, enhanced service providers, and other private line and WATS customers, both large and small, may also leak traffic into the exchange. Using the term "leaky PBX" to denote this generic problem, we concluded that the most reasonable interim approach to reducing the discrimination in rates for MTS users and these other persons would be to develop a surcharge on private lines and the closed ends of WATS lines. We determined that a surcharge would be imposed on the closed ends of all interstate WATS lines as well as all jurisdictionally interstate private lines not falling within specifically enumerated exceptions. These exceptions included: (1) Private lines subject to carrier's carrier charges; (2) private lines that cannot leak; and (3) certain private lines that can but probably do not leak (*i.e.*, Telex and programming facilities). We established a flat surcharge of $25 per voice grade line for 1984 only because insufficient time remained for the telephone companies to develop a system of surcharges more precisely reflecting actual leakage before the October 3 deadline for filing access service tariffs. *See Reconsideration Order* at para. 88. We expressed our expectation that telephone companies would act to replace the $25 surcharge by such a system of surcharges as soon as possible.

113. We have received fifteen petitions requesting that we reconsider the rules governing the leaky PBX surcharge.[53] They request that we clarify or modify the rules that determine the users who will pay these charges and the amounts they must pay. We have also received a number of responsive filings relating to the surcharge. Some of these filings also advocate changes in the surcharge rules.[54]

B. The Surcharge Concept

114. Petitioners who contend that we should not impose a surcharge upon any private line subscriber, including users who do in fact leak traffic into the local network through a PBX, generally contend that the decision to impose a surcharge is arbitrary and capricious or is not adequately supported by the record. See, *e.g.*, RCA petition at 8–10. Some contend that we should not impose any surcharge in the absence of a study of leaky PBX usage. See, *e.g.*, ARINC petition at 21; RCA petition at 8. RCA also claims that the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), require additional proceedings in order to legitimize any surcharge. RCA petition at 10.

115. Some petitioners such as Ad Hoc and IBM, who apparently do not question the concept of a surcharge, do seek reconsideration of our decision to establish an initial surcharge of $25. Questions relating to that computation are not, however, readily severable from questions relating to our decision to establish a surcharge in the absence of actual usage measurements.

116. We were confronted with three choices when we adopted the surcharge concept. First, we could permit leaky PBX users to continue to obtain the same interstate access that MTS customers use without paying the same price. Second, we could direct telephone companies to perform usage measurements that could be costly and difficult in order to ensure that leaky PBX users pay precisely the same amount as the MTS users. Third, we could impose a surrogate charge based upon an estimate of average leaky PBX usage that is necessarily imprecise. We concluded that, at this time, the third alternative is more consistent with the goals of the Communications Act than the other two. The imposition of a modest surcharge that is not based upon actual usage measurements will reduce discrimination or preferences to the maximum extent possible without imposing costly and difficult measurement procedures.

117. We did not reject the second alternative as a long-term solution. We merely concluded that we cannot be sufficiently certain that usage measurement proposals that were submitted in response to the *Second Supplemental Notice* can be implemented without undue cost and difficulty to warrant imposing such requirements at this time. The petitioners who have criticized our decision to impose a surcharge, or the use of a $25 surcharge for the initial access charges, have not submitted any new proposals for usage measurements. On the contrary, some of those petitioners contend that the actual measurement alternative should not be adopted. See *e.g.*, petition of Ad Hoc at 4, BOC opposition at 2.

118. The petitioners who contend that our choice was arbitrary or capricious really seem to be suggesting that a fourth alternative exists that would have been better than the one we selected. Those petitioners have not in fact identified any such alternative. We remain convinced that the adoption of the surcharge concept is the best possible course. A surcharge has become even more necessary in view of our decision to defer some end user charges. The MTS rate reductions may be smaller and the incentive to use a leaky PBX as a substitute for MTS will be greater than we anticipated at the time we adopted the *Reconsideration Order*.

119. We do not find suggestions that leaky PBX usage is too minimal to warrant the imposition of a surcharge persuasive. It is undisputable that wherever products or services that can serve the same function are offered at two different prices, customers or users have an incentive to use the lower priced product or service. The disparities between local exchange service charges and interstate carrier's carrier charges, particularly Carrier Common Line charges for the next few years, create an incentive to disguise interstate use as local exchange use to save money. Private line terminations in a PBX or equivalent switching device provide the ability to disguise interstate use as local exchange use. It is only reasonable to assume that private line customers possessing this capability will take advantage of the opportunity it provides with considerable frequency.

120. The failure of participants to tender any evidence with respect to the actual extent of leaky PBX usage does not justify any inference more favorable to private line subscribers with PBXs than the one we have made. It is the users who would be adversely affected by our decision to impose the surcharge for leaky PBX usage who alone would have been able to provide the information and studies to refute our conclusion. No such studies were submitted in the comments that were filed in response to the *Second Supplemental Notice*, which first proposed a surcharge, and no private user sought leave to supplement the record during the period of more than two years that elapsed between the filing of *Second Supplemental Notice* comments and the adoption of the *Access Charge Order*. No studies have been submitted in the further reconsideration proceeding.

121. We find no merit in contentions that private line customers did not receive adequate notice that a leaky

[53] The following parties filed petitions for further reconsideration raising issues directly related to the surcharge: Allnet, ARINC; Ad Hoc; ALTEL; AP; Bunker Ramo; GSA; IBM; the Joint Resellers; NCTA; RCA; SBS; SICA; U.S. Telephone and USTS.

[54] Comments discussing the surcharge were filed by: Ad Hoc; American Hotel and Motel Association; API; EDS; GTE; and Western Union. AT&T and the BOCs filed oppositions discussing these issues.

PBX surcharge might be imposed. As previously noted, we first gave notice that we had tentatively decided to impose such a surcharge in April 1980 and we received extensive comments upon that subject in response to the *Second Supplemental Notice*. Private line users had every reason to assume that a surcharge was being actively considered until we adopted the *Access Charge Order* in December 1982.

122. The initial $25 surcharge that we adopted in the *Reconsideration Order* is in fact more modest than the surcharge that was originally proposed. We had originally proposed to assess the same charge upon private lines and other lines for the element that is now described as the Line Termination element. The Line Termination charge in the NECA tariff filed on September 30, 1983, is .7 cents per access minute. If a private line has 8,000 minutes of use, the original proposal would have produced a monthly charge of about $56 per line. The petitioners could scarcely have been prejudiced by our decision to adopt a surcharge that may be less than half of the surcharge described in the *Second Supplemental Notice*.

C. Surcharge Computations

123. Petitioners who question the computation of a $25 surcharge have also suggested that the rules be revised to provide more explicit guidance to the exchange carriers for the computation of surcharges. Some have suggested that the surcharge should decline as the Carrier Common Line revenue requirement declines. See, *e.g.*, Petition of IBM at 1; Opposition of UTC at 14; Opposition of GTE at 5. Some have suggested that we establish a credit for message unit charges that are paid for local exchange service in connection with leaky PBX usage. See, *e.g.*, ARINC petition at 21.

124. We agree that further refinements would be desirable, but we have decided that we should obtain further comments before we devise a formula for computing and crediting surcharge revenues in future years. We plan to invite such comments in connection with proceedings to reexamine the transition plan for end user charges and the proceedings to reexamine the rules for transport charges.[55] We have decided to retain a $25 surcharge for the initial access charges. Our *Reconsideration Order* computations did assume a charge for OCC non-premium access that is higher than the charge that will result from the formula we are adopting in this *Order*, but that *Order* also assumed a different standard for designating exempt lines that would have produced average leaky PBX usage per line that is lower than the average usage that will result from the standard we are adopting in the next subpart of this *Order*. A revised computation that takes both changes into account would produce about the same result as the original computation. Thus, any change that we might adopt in the initial $25 surcharge or the crediting of initial surcharge revenues to the Carrier Common Line element on the basis of the present record would unduly complicate the effort to get access charges in place without achieving results that are more precise.[56]

D. Exemptions

125. We have already concluded that the surcharges should be limited to private lines in view of our decision to include WATS lines in the Common Line category. A number of petitions have requested that we revise the rules that describe the circumstances in which surcharges will be applicable.

126. Several petitioners request that we revise our rules to impose a surcharge only upon those private lines that in fact leak rather than those having the potential to leak. ARINC suggests that imposing the surcharge upon most private lines with this potential, while exempting Telex and program transmission facilities, creates an unreasonable, and therefore unlawful, discrimination among classes of private line subscribers. ARINC petition at 26–27. ARINC proposes that we adopt a categorical exemption for all services that as a practical matter are not reasonably susceptible to leakage. Others assert that because the Communications Act requires reasonable, non-discriminatory cost-based rates, the surcharge must be restricted to those who actually leak traffic into the local network. *See, e.g.*, SIAC petition at 6; SBS petition at 30; UTS Comments at 8–9. They propose that we permit private line subscribers to avoid the surcharge by certifying that they leak no traffic into the local network. Other petitioners make more modest requests, seeking only that the private lines upon which they rely to meet their unique business needs be made explicitly exempt from application of the surcharge. *See, e.g.* petitions of Associated Press and Commodity News Services at 9; Bunker Ramo at 6; GSA at 7–13; and SIAC at 4.

127. As we have already explained, we view the surcharge as a tool to reduce the rate discrimination between MTS and the cheapter substitute offered by a leaky PBX. Petitioners have convinced us, however, that we can restrict application of the surcharge to a smaller category of private lines than the category covered by the current rules and still be reasonably certain that the surcharge reaches essentially all those who are using their private lines to configure and MTS substitute. We find that by limiting the application of the surcharge to those private line subscribers who terminate their lines in a PBX or other device with equivalent interconnection capabilities, we can ameliorate any unreasonable discrimination between MTS and private line rates, a primary goal of this proceeding, while minimizing the likelihood that surcharges are being imposed on private line customers who do not use these facilities as an MTS substitute.[57] In the *Reconsideration Order* we had extended the surcharge to cover most private line terminations because neither we nor the exchange carriers had any reliable way to determine how private lines are internally configured or interconnected on a private line subscriber's premises. *Id.* at para. 87.

128. Petitioners suggest that customer certification could be used to limit the surcharge's application to certain classes of a private line customers. The exchange carriers apparently find such a standard to be acceptable since this is the method proposed in their access tariffs to distinguish those lines to which

[55] In the *Reconsideration Order* we indicated that we would be initiating a proceeding shortly to determine the appropriate short and long-term rate structure for recovering costs now allocated to the Common Transport and Dedicated Transport elements as well as to develop guidelines for costs that may be recovered from interexchange carriers through non-recurring charges. *Id.* at paras. 137, 145. The relationship between carrier's carrier charges and the surcharge make this proceeding, which is directly concerned with the rate structure for carrier's carrier charges, a logical proceeding in which to address these issues.

[56] We do, however, wish to provide one clarification at this time. In n. 64 of the *Reconsideration Order*, we said that it would "consider allowing local exchange carriers to charge twice the per channel surcharge in cases where the voice-equivalent channel is four-wire instead of two-wire." Asking that we reconsider this statement, IBM emphasizes that a four-wire channel and a two-wire channel of the same bandwidth are equivalent in the amount of two-way conversations each can carry (IBM petition at 7). While the greater cost of a four-wire line may justify a higher basic charge for this line, we agree with IBM that this does not justify a higher surcharge than that imposed on a two-wire channel of equal bandwidth.

[57] A private line that terminates in a Centrex or an enhanced service provider's node would be equally capable of leakage. We shall require that a surcharge be imposed whenever a jurisdictionally interstate private line and a local exchange service subscriber line are attached to a device that can interconnect the private line with local exchange service regardless of whether the "leakage" capability exists in customer premises equipment or in a Centrex-CO switch.

surcharges do not apply under the current rules from those lines that are subject to the Special Access surcharge. *See, e.g.,* NECA Tariff at section 7.4.2(c), p.426. Accordingly, we shall permit private line customers to be exempt from the surcharge upon their certification to their exchange carrier that their private lines do not terminate in a PBX or other device that can interconnect the private line with local exchange service subscriber lines.

129. This revision of our rules does not totally eliminate the possibility that a private line subscriber who leaks no traffic into the local network will still have to pay the surcharge. It does, however, unquestionably reduce substantially the possibility of this occurring. We believe that it is a reasonable interim approach to solving the leaky PBX problem and balancing the goals of this proceeding. We do not believe that it would be reasonable to extend the certification procedure to customers who do have the capacity to leak. The exchange carriers can determine whether a line has been attached to a PBX, but there is no practical way for an exchange carrier to determine whether traffic in fact leaks from a line that is attached.

130. Although the surcharge that was prescribed in the *Reconsideration Order* was limited to Special Access lines supplied by the telephone companies, we recognized that privately owned or interexchange carrier transmission systems can also be connected to a PBX or similar device in order to obtain an MTS or WATS substitute while avoiding payment of either carrier's carrier charges or the leaky PBX surcharge. That *Order* said that we would allow exchange carriers to develop "reasonable, non-discriminatory surcharges for individual exchange lines that could be connected to private or carrier-provided systems for interstate services." *Reconsideration Order* at para. 86. The National Cable Television Association (NCTA) has asked us to declare that such surcharges may be imposed only to the extent that interconnection in fact occurs and to quantify the magnitude of the surcharge that may be imposed. NCTA petition at 6.

131. This permissive surcharge is described in § 69.115(d) which provides:

(d) A telephone company may propose reasonable and nondiscriminatory end user surcharges to be filed in its federal access charge tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to Subsection (e) of this Section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and nondiscriminatory manner.

132. We do not believe that this language could reasonably be interpreted as permitting an assessment for a line that is not provided by a telephone company if a similarly configured telephone company line would not be assessed. For example, a user who truthfully certifies that such a line has not been attached to a PBX or some other device that could be used to divert telecommunications to the local exchange network could not be subject to assessment.

133. We note that no exchange carrier has yet proposed a system of surcharges for common lines connected to non exchange carrier provided interstate transmission facilities. The ability of exchange carriers to develop such surcharges that satisfy statutory and Commission criteria remains uncertain. For this reason it is premature to address the NCTA request that we quantify these surcharges. We also find no evidence to support the fears of NCTA that any state intends to employ an intrastate surcharge as a tax on bypass facilities.[58] While we are, of course, concerned about any state action that adversely affects the development of interstate telecommunications and the technology on which it relies, only if there were evidence in this instance of such state action would it become proper to consider whether action by this Commission to counteract such state action would be appropriate.

E. Reseller Charges

134. Several petitions raise questions with respect to the application of the surcharge and other access charges upon carriers that resell interexchange services or facilities of other interexchange carriers. The *Access Charge Order* did not distinguish between resellers and other carriers for purposes of assessing access charges, but the *Reconsideration Order* did exempt the resellers of WATS from carrier access charges. The lines that link a WATS reseller switch with a telephone company end office will continue to be charged at ordinary business subscriber line rates.

135. SBS notes that the *Reconsideration Order* expressed an intent that resellers of WATS and resellers of OCC WATS-type services be treated in a uniform manner. It asserts that access charge tariffs that have been filed do not accomplish that result and requests that we clarify own intent. SBS petition at 23. The resale of "OCC MTS/WATS type services" have been expressly excluded from the assessment of carrier access charges in §§ 69.105(a), 69.106(a), 69.107(a), 69.108(a) and 69.111(a) of the rules. We do not believe that any further clarification is needed.

136. ALTEL had requested that we clarify whether WATS resellers must pay an End User Common Line charge for the facilities provided to link their switches to their serving central office. ALTEL petition at 16. Under the *Reconsideration Order*, a WATS reseller would have paid the surcharge on its WATS access lines and could have continued to pay local business rates for the lines through which its local customers reached its switch. ALTEL suggested that the surcharge that the *Reconsideration Order* would have imposed on WATS access lines should be in part a surrogate for End User Common Line charges that would otherwise be imposed on business lines. With the elimination of the surcharge on WATS access lines there should be no question about our intent that all common lines used by multi-line business customers pay the interstate End User Common Line charge.

137. ALTEL has also requested that we permit WATS resellers to choose whether they subscribe to facilities offered under the Dedicated Transport element or regular exchange business lines. It requested that in either case the reseller be required to pay only the tariffed rate for the facilities provided. ALTEL petition at 21. The services that are deemed to be local exchange for this purpose encompass more than transport. Calls to the reseller switch use the end user's subscriber loop and the local exchange switch as well as the line to a WATS reseller switch. Thus, an optional access charge in lieu of local exchange charges could not be limited to transport charges. Therefore, we will deny this ALTEL request.

138. In order to complete their interstate networks, some interexchange carriers rely on WATS lines to supplement their own transmission facilities or the private lines they resell. In theory, under the access charge plan,

[58] Taxation questions do not, of course, arise if a surcharge is employed as a surrogate for charges for the use of local exchange facilities. A surcharge upon a facility that is not provided by the telephone company would appropriately be characterized as a tax if the facility were used in a manner that does not create the capacity to leak through a PBX or other device. The rule we have adopted would not permit exchange carriers to impose a surcharge in such circumstances.

as modified on reconsideration, traffic carried over the WATS lines leased by these resellers would not be subject to carrier's carrier charges, while the remaining traffic they carry would be assessed such charges. As a practical matter, however, an exchange carrier can not determine the traffic a reseller transmits over its WATS lines as opposed to its other interexchange transmission facilities. If private lines and WATS lines are contained in the same multi-line hunt or rotary group, there is no way to measure the amount of WATS traffic as a percentage of overall interexchange traffic. For this reason, we recognized the need for a special formula to determine the amount of traffic carried over such mixed systems that should be subject to carrier's carrier charges. *Reconsideration Order* at para. 89.[59] We left the development of such a formula, at least in the first instance, to the exchange carriers' discretion.[60]

139. Dissatisfied with the formula proposed in the access tariffs filed in October, 1983,[61] the "mixed resellers" request that we take the opportunity in this further reconsideration proceeding to specify a formula defining the minutes of traffic carried over their networks that will be subject to carrier's carrier charges. *See* ALTEL petition at 23–24; Joint Resellers' petition at 19; Allnet petition at 19–24; Telesphere petition at 8; MCI opposition at 14–16. The *Reconsideration Order* can and should be interpreted to require a reasonable proration of mixed system traffic between a reseller's WATS lines and its other transmission facilities. The reasonableness of the particular formula described in an access tariff can and should be determined in the tariff review process. We intend to address the concerns the mixed resellers express about the legality of the formula proposed by the exchange carrier association in the proceeding we have initiated to investigate the lawfulness of all the proposed 1984 interstate access tariffs.[62] Accordingly, we decline to address these issues in this more general rulemaking docket.

VII. Other Issues

140. Whenever we conduct a broad rulemaking proceeding like this, until there is assurance that the decisions we have reached are really final *i.e.*, not subject to further reconsideration, the telecommunications industry and those dependent upon it for services must confront a period of uncertainty. Lack of finality to the administrative process can negatively affect the industry's ability and incentive to plan and make investment decisions and can foster confusion and disruption among subscribers. In order to bring finality to our decision making process and to eliminate that debilitating uncertainty, we adopted § 1.429(i) or our rules. That Section provides:

> The Commission may grant [a] petition for reconsideration in whole or in part or may deny the petition * * *. Any order disposing of a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstances, a second petition for reconsideration may be dismissed by the staff as repetitious.

47 CFR 1.429(i). In their petitions for further reconsideration some petitioners have asked us to reconsider facets of the access charge plan adopted in the *Access Charge Order* that the *Reconsideration Order* left unchanged. For example, ALTEL requests that we eliminate § 69.107(f)–(h) of our rules. These sections require an exchange carrier to deduct a credit from a carrier's Local Switching charge whenever customers of its interexchange services must also pay message unit charges on their interstate calls.[63] It urges that such credits be given directly to the customer instead of the carrier. MCI asks us to revise the rules prescribing the rate structure for switching and transport elements to require further unbundling of the traffic sensitive access elements.[64] MCI also renews its legal attack against the creation of an exchange carrier association and asks that we eliminate the association's role in the access charge plan. RCA asks us to specify subelements and associated rates for the Special Access element, a step we have repeatedly declined to take. *See Access Charge Order* at para. 249, *Reconsideration Order* at para. 150. Admittedly, § 1.429(i) does not mandate denial of these requests. This section, however, clearly reflects a policy of favoring administrative finality in the rulemaking process. We find none of the arguments that petitioners proffer in support of their requests so compelling that they warrant departure from this policy. We are accordingly denying all these requests as untimely or repetitious.

141. In the *Access Charge Order* we had established the Pay Telephone element to which we apportioned an exchange carrier's investment in pay telephones and appurtenances as well as pay telephone lines. *Id.* at para. 128. We required that the associated interstate revenue requirement be recovered through usage charges imposed only on "sent paid" calls. *See id.*, App. A at 9. Because the majority of all calls placed from pay telephones are collect calls or calls billed to a credit card or a third party, this rate structure would have recovered this revenue requirement from only a minority of the persons using pay telephones. In the *Reconsideration Order*, we revised the rules governing the recovery of these fixed costs to correct this flaw. On reconsideration, we eliminated the Pay Telephone element. *Id.* at para. 58. Costs of pay telephones that could access all interexchange carriers' services would be recovered through common line charges. *Id.* at paras. 58, 60–61. Recognizing that exchange carriers could provide coin or coinless pay telephones dedicated to interexchange services of a single interexchange carrier, we created the Limited Pay Telephone element to which we assigned the investment in such telephones and associated facilities. *Id.*

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[59] The revised treatment of WATS access lines and other OCC facilities required by this *Order* does not eliminate the need for such a formula.

[60] We suggested that a formula similar to that included in BSOC Tariff FCC No. 11 for billing interexchange carriers with mixed systems might be appropriate. *Reconsideration Order* at para. 89.

In the *Memorandum Opinion and Order* denying petitions for rejection and suspension and investigation of BSOC 11 tariffs we explain this billing arrangement as follows: "Under this arrangement exchange access would be billed either at local exchange business rates or at ENFIA rates based on an allocation of the lines in the combined access group. For the initial two-month period of service, one combined access line would be billed at local exchange business rates for every outward WATS access line the OCC obtains to furnish its resold service. For each and every month following the second month combined access is initiated, the WATS usage of the group would be divided by the billing level requirement (which the parties characterize as a minimum usage requirement) of 2500 minutes to determine the number of lines in the access group eligible for billing at the local exchange business rate. This number could not exceed the number of outward WATS access lines obtained by the OCCs. All other combined access lines would be billed at ENFIA rates."

Memorandum Opinion and Order responding to BSOC transmittal No. 61, at para. 3, released November 4, 1982.

[61] Under the tariff filed by the exchange carrier association, each interexchange carrier planning to resell interexchange services provided "through the use of originating only Special Access Dedicated Access Line Service" must report the extent of such use to the exchange carrier providing these facilities. "Upon proper reporting of such resale," the exchange carrier would deduct 2500 minutes from the minutes of use relied on to compute the line side switched access charges for each Special Access Dedicated Access Line with at least 2500 minutes of use. See the association's Tariff FCC No. 1 Original at 233–37.

[62] See Memorandum Opinion and Order in Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83–1145, FCC 83–470, released October 19, 1983.

[63] ALTEL petition at 21–23.

[64] MCI petition at 32–33.

at para. 61. These costs would be recovered through flat monthly charges assessed upon the interexchange carrier requesting this kind of access service. 47 CFR 69.103.

142. In its petition, American Communications requests that we revise § 69.103 of our rules "to extend unequivocally the Limited Pay Telephone access service element to coin operated as well as coinless pay telephones which access the service of only one interexchange carrier." American Communications petition at 14. No revision of the rule is needed, however, to achieve this result. Section 69.102 already includes such coin operated pay telephones. A closer reading of American Communications petition reveals that the relief it is really seeking is authorization to interconnect customer provided, coin activated pay telephones to the local and interstate telephone network. Because this is so clearly outside of the scope of this further reconsideration order, we deny this request.

143. Lexitel asserts that the *Reconsideration Order* failed to include an assessment of the impact upon small businesses, like Lexitel, of the recalculated premium and the use of access minutes for computing carrier's carrier charges.[65] The Order makes abundantly clear, however, that we weighed the effect of both these modifications upon the OCCs and competition in the interstate communications services market. *See, e.g.*, para. 97 (premium set to enable OCC's to compete successfully), paras. 103–104 (weighing effect of access minutes in adjusting premium); para. 105 (premium set to reflect increased transport charges anticipated by OCCs); para. 125 (adjustment to premium needed to offset use of access minutes).

144. The radio common carriers (RCCs) have also asked for clarification of their status under the access charge plan. They note that neither the *Access Charge Order* nor the *Reconsideration Order* include any reference to them and infer that we did not intend that exchange carriers be compensated through access charges for the interconnection services they provide to RCCs. They seek clarification now only because the association and several exchange carriers have filed interstate access tariffs with us under which they propose to provide interconnection services to the RCCs.

145. Traditionally the RCCs and the exchange carriers have negotiated contracts to govern the terms for interconnection of their services.[66] In CC Docket No. 79–318 we decided that the use of intercarrier agreements to define the terms for interconnection of RCC and telephone company facilities should be extended to include interconnection of cellular systems to the local network.[67] When we adopted Part 69 to govern access charges for interstate and foreign access services, we did not intend to reverse or to revise the *Cellular Order* or to require that the preexisting intercarrier agreements between RCCs and telephone companies be replaced by access tariffs.

146. In neither the *Access Charge Order* nor the *Reconsideration Order* did we explicitly address the status of RCCs under Part 69. A review of these *Orders* and the access charge rules, however, makes clear that we did not intend that access charges filed in compliance with Part 69 be imposed upon RCCs providing cellular mobile services in particular, or two-way mobile service and paging services generally. This conclusion is applicable to all carriers in the public mobile service.

147. The access charge plan calls for recovery of costs associated with originating and terminating interstate telecommunications from end users and interexchange carriers. In § 69.5 we describe persons upon whom access charges are to be imposed. End user charges shall be assessed upon end users, as that term is defined in the rules. 47 CFR 69.5(a). Carrier's carrier charges shall be assessed upon interexchange carriers that use local exchange switching facilities in the provision of interstate or foreign telecommunications services.[68] 47 CFR 69.5(b). Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not already assessed upon such usage. 47 CFR 69.5(c).

148. RCCs are not end users except to the extent that they use exchange facilities for administrative purposes. As the *Reconsideration Order* makes clear, the surcharges described in § 69.5 shall apply only to certain jurisdictionally interstate interexchange lines. *Id.* at para. 82. The facilities provided to RCCs do not fall into that category.

149. The remaining question is whether RCCs are interexchange carriers for purposes of Part 69. The RCCs provide "exchange service" under Sections 2(b) and 221(b) of the Communications Act, and we have consistently treated the mobile radio services provided by RCCs and telephone companies as local in nature. *See, e.g., FCC Policy Regarding Filing of Tariffs for Mobile Service*, 53 FCC 2d 579 (1975); *Public Notice: FCC Announces New Policy Regarding Filing of Mobile Tariffs*, 1 FCC 2d 830 (1965); *Cellular Order*, 86 FCC 2d at 483–84, 504. Furthermore, mobile radio services are provided by divested BOCs under the *MFJ* and are specifically defined as "exchange telecommunications services" for that purpose. *Memorandum of the Court*, Cir. No. 82–0192 (D.D.C. November 1, 1983), slip. op. at 4–6. Like wireline telephone companies, RCCs provide interstate

[65] Lexitel asserts that such an analysis is required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This is incorrect. In the Access Charge Order we concluded that the Regulatory Flexibility Act was apparently designed to protect only those small businesses directly subject to administrative rules rather than those indirectly affected by the results produced by these rules. *Id.* at para. 359. Consequently, only exchange carriers might claim protection under the Act. Because each exchange carrier, no matter how small, holds a dominant position in its local service area, we held that even they could not claim such protection. *Id.* at para. 360. No party seeking reconsideration of the Access Charge Order, including Lexitel, challenged this analysis of the Regulatory Flexibility Act. Having determined that the access charge rules "will not have a significant economic impact on a substantial number of small entities," we certified that the requirements of the Act did not apply to the access charge rules. *Id.* at 358. Once such certification is made, the requirement of a regulatory flexibility analysis imposed under Sections 603 and 604 of the Regulatory Flexibility Act does not apply to either the proposed or the final rule. See 5 U.S.C. 605(b).

[66] *See* Interconnection Between Wireline Telephone Carriers and Radio Common Carriers Engaged in the Provision of Domestic Public Land Mobile Radio Service Under Part 21 of the Commission's Rules (Domestic Public Land Mobile Radio Service), 63 FCC 2d 87, 88 (1977); Interconnection Between Wireline Telephone Carriers and Radio Common Carriers Engaged in the Provision of Domestic Public Land Mobile Radio Service under Part 22 of the Commission's Rules (Memorandum of Understanding), 80 FCC 2d 352 (1980). Telocator states that the exchange carriers have refused to renew the Memorandum of Understanding on which these contracts are based and which expired in August, 1983. See Telocator Comments filed in Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83–1145, Phase I, at n.5.

[67] Report and Order in An Inquiry Into the Use of the Bands 825–845 MHZ and 870–890 MHZ for Cellular Communications Systems, and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems (Cellular Order), CC Docket No. 79–318, 86 FCC 2d 469; modified, 89 FCC 2d 58; *further modified*, 90 FCC 2d 1982; *appeal dismissed sub nom.* United States v. FCC, No. 82–1526 (D.C. Cir. dismissed January 17, 1983).

[68] Some charges such as Special Access charges and surcharges that are generally described as "carrier charges" will, of course, be assessed to end users in some circumstances. In certain instances, such as resale of WATS or OCC WATS-type services, resale carriers are treated as end users and thus pay local exchange business charges and the End User Common Line charges that are assessed to multi-line subscribers.

services only to the extent that their facilities may be used to originate or terminate toll calls. We conclude that they are not and should not be treated as interexchange carriers under Part 69.

150. We expect to issue an order shortly in the companion CC Docket No. 83-1145, which is an investigation of the filed access and divestiture related tariffs. In order to avoid burdensome duplicative filings, we will establish specific filing requirements for revisions needed to comply with this decision in that order, in addition to any other changes found necessary. Carriers should prepare themselves to make changes in their filed access tariffs, but should defer requests for waivers or special permissions until we have announced specific procedures in the Docket 83-1145 order.

VIII. Ordering Clauses

151. Accordingly, it is hereby ordered, that pursuant to 57 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 533 the *Reconsideration Order* adopted in this proceeding is modified to the extent set forth in this *Memorandum Opinion and Order.*

152. It is further ordered, that the petitions for further reconsideration or clarification are granted to the extent set forth in this *Memoradum Opinion and Order,* and are otherwise denied.[69]

153. It is further ordered, that the Motion to Accept Late-Filed Pleading filed by the GTE Corporation is granted.

154. It is further ordered, that Part 69 of the Commission's rules is amended as set forth in Appendix A, effective on the day following their publication in the **Federal Register.** We find good cause for requiring an effective date earlier than thirty days following publication in the **Federal Register.** This good cause arises from the need for telephone companies to file tariffs to be effective on or before April 3, 1984 that are based on the access charge rules as revised by this *Memorandum Opinion and Order.*

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Part 69, Chapter 1 of Title 47, Code of Federal Regulations, is amended as follows:

1. Section 69.3 is amended by revising paragraphs (a), (b), (e)(6) and (e)(8) to read as follows.

[69] This includes the petition for clarification of Riggs National Bank filed December 5, 1983. That request for clarification is moot in view of the changes we are making in the surcharge exemptions.

§ 69.3 Filing of access service tariffs.

(a) A tariff for access service shall be filed with this Commission for an annual period. Such tariffs shall be filed so as to provide a minimum of 90 days notice with a scheduled effective date of June 1.

(b) The requirement imposed by paragraph (a) of this Section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than June 1.

* * * * *

(e) * * *

(6) A telephone company or companies that elect to file such a tariff for any annual period subsequent to May 31, 1985 shall notify the association not later than November 30 of the preceding year if such company or companies did not file such a tariff in such preceding period or cross-referenced association charges in such preceding period that will not be cross-referenced in the new tariff.

* * * * *

(8) To enable the association to prepare an access tariff for each annual period subsequent to May 31, 1985, each telephone company shall notify the association no later than November 30 of the preceding year of the projected average number of private line terminations and any other lines that would be subject to the special access surcharge.

2. In § 69.5, paragraph (c) is revised to read as follows:

§ 69.5 Persons to be assessed.

* * * * *

(c) Special access surcharges shall be assessed upon users of exchange facilities which interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and nondiscriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services pursuant to the provisions of Section 69.115 of this Part.

3. In § 69.105, paragraph (b) is revised to read as follows:

§ 69.105 Carrier Common Line.

* * * * *

(b) A per minute charge shall be computed by dividing the revenue requirement for the Carrier Common Line element by the projected annual access minutes of use for all interstate and international services that use local exchange switching facilities and are subject to charges under paragraph (a) of this Section. Each minute of use of any local exchange switch by such services shall be counted for purposes of computing and assessing this charge.

4. Section 69.115 is amended by revising paragraphs (a) and (c) and adding paragraph (e)(6) to read as follows:

§ 69.115 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities which are interconnected by users with means of interstate or foreign telecommunications, a surcharge which is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services which are not exempt from assessment pursuant to paragraph (e) of this section.

* * * * *

(c) If the association, carrier or carriers that file the tariff are unable to estimate such average usage for a period ending May 31, 1985, the surcharge for such period shall be twenty-five dollars ($25) per line termination per month.

* * * * *

(e) * * *

(6) Any termination of a line that the customer certifies to the exchange carrier is not connected to a PBX or other device capable of interconnecting a local exchange subscriber line with the private line.

* * * * *

5. Section 69.201 is revised to read as follows:

§ 69.201 General.

Notwithstanding §§ 69.4, 69.104 through 69.108, and 69.111 through 69.112, charges for the access elements described in this subpart shall be computed in accordance with this subpart during the period commencing January 1, 1984 and ending May 31, 1990. This subpart does not supersede § 69.107 (f) through (h).

6. Section 69.202 is revised to read as follows:

§ 69.202 Initial End User Common Line charges.

(a) End User Common Line charges shall be computed in accordance with this Section for any period prior to June 1, 1985.

(b) An End User Common Line charge that is the lesser of the charge computed pursuant to § 69.104(d) or $6 shall be

assessed for each local exchange service subscriber line except:

(1) A residential line;

(2) A single line business line;

(3) A line used for Centrex–CO service that was in place or on order on July 27, 1983.

(c) A charge that is the lesser of the charge computed pursuant to § 69.104(d) or $2 shall be assessed for each line used for Centrex–CO service that was in place or on order on July 27, 1983.

(d) No End User Common Line charge shall be assessed for any residential line or any single line business line.

(e) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(f) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(g) A charge that is computed in accordance with paragraph (b) of this section shall be assessed for each WATS access line that is used for interstate or intrastate WATS.

§§ 69.203 and 69.204 [Removed]

7. Sections 69.203 and 69.204 are removed.

8. Section 69.205 is revised to read as follows:

§ 69.205 Transitional premium charges.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive premium access in lieu of carrier charges that are computed in accordance with §§ 69.105 through 69.108 and 69.111 through 69.112 of this part if any carrier or other person does not receive premium access. For purposes of this subpart, a carrier or other person shall be deemed to receive premium access if access is provided through a local exchange switch that has the capability to provide access for an MTS–WATS equivalent service that is substantially equivalent to the access provided for MTS or WATS, except that access provided for an MTS–WATS equivalent service that does not use such capability shall not be deemed to be premium access until six months after the carrier that provides such MTS–WATS equivalent service receives actual notice that such equivalent access is or will be available at such switch.

(b) The transitional premium charges for the Carrier Common Line, Line Termination and Intercept elements shall be expressed in dollars and cents per access minute. Such charges shall be computed by dividing the premium revenue requirement for such element by the projected premium access minutes for such element. The premium revenue requirement shall be computed by subtracting the projected revenues from non-premium charges attributable to such element from the revenue requirment for such element.

(c) The transitional premium charges for the Local Switching element shall be expressed in dollars and cents per access minute. The charge for a premium access minute that would be described as an LS 2 minute in § 69.107 shall be computed by dividing the premium Local Switching revenue requirement by the sum of the projected LS 2 premium access minutes and a number that is computed by multiplying the projected LS 1 premium access minutes by .65. The charge for a premium access minute that would be described as an LS 1 minute in § 69.107 shall be computed by multiplying the charge for an LS 2 premium access minute by .65. The premium Local Switching revenue requirement shall be computed by subtracting the projected revenues from non-premium charges attributable to the Local Switching element from the revenue requirement for such element.

(d) Transitional premium charges that are computed in accordance with applicable requirements shall be assessed for the Transport element or elements. Such premium charges shall be designed to produce total annual revenue that is equal to the premium transport revenue requirement. The premium transport revenue requirement shall be computed by subtracting projected revenues from non-premium charges attributable to the transport element or elements from the revenue requirement for such element or elements.

9. A new § 69.206 is added to read as follows:

§ 69.206 Transitional non-premium charges for MTS–WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers that provide MTS–WATS equivalent services for access that is not deemed to be premium access in lieu of carrier charges that are computed in accordance with §§ 69.105 through 69.108 and 69.111 through 69.112. Such charges shall be expressed in dollars and cents per Dedicated Transport line per month.

(b) The charges for any period ending on or before May 31, 1985, shall be computed by multiplying a hypothetical premium charge for each relevant access element by 4.050. The hypothetical premium charges shall be computed by dividing the annual revenue requirement for such element by the sum of the projected premium access minutes for an annual period ending on or before May 31, 1985; a number that is computed by multiplying the projected average number of Dedicated Transport lines that will be used in such period to provide non-premium access for MTS–WATS equivalent services by 48,600; and a number that is computed by multiplying the projected non-premium access minutes for other services for such element for such period by .45.

(c) The charges for each element for any period beginning on or after June 1, 1985, shall be computed by multiplying the applicable charge for the preceding access period by the CPI factor. The CPI factor shall be computed by dividing the Consumer Price Index at the end of the preceding calendar year by the Consumer Price Index at the beginning of the preceding calendar year.

10. A new § 69.207 is added to read as follows:

§ 69.207 Transitional non-premium charges for other services.

Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access for services other than MTS–WATS equivalent services that is not deemed to be premium access in lieu of carrier charges that are computed in accordance with §§ 69.105 through 69.108 and 69.111 through 69.112. Such charges shall be expressed in dollars and cents per access minute. The charge for each relevant element shall be computed by dividing the applicable non-premium per line charge for MTS–WATS equivalent services by 9,000.

11. In § 69.303, paragraph (c) is revised to read as follows:

§ 69.303 Station equipment.

* * * * *

(c) Investment in all other station equipment shall be apportioned between the Special Access and Common Line elements on the basis of the relative number of equivalent lines in use. Each interstate or foreign Special Access line shall be counted as one more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is

equivalent. Local exchange subscriber lines and WATS access lines shall be multiplied by the interstate separations factor for non traffic sensitive plant to determine the number of equivalent local exchange subscriber lines and the number of equivalent WATS access lines.

* * * * *

12. Section 69.304 is amended by revising paragraphs (a) and (b) to read as follow:

§ 69.304 Customer OSP.

(a) Investment in local exchange subscriber lines and WATS access lines shall be assigned to the Common Line element.

(b) Investment in interstate and foreign private lines shall be assigned to the Special Access element.

* * * * *

13. Section 69.502 is revised to read as follows:

§ 69.502 Base factor allocation.

In the period ending May 31, 1985, the projected revenues from the End User Common Line charges and Special Access surcharges shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element.

§ 69.503 [Removed]

14. Section 69.503 is removed.

15. In § 69.606, paragraph (b) is revised to read as follows:

§ 69.606 Computation of average schedule company payments.

* * * * *

(b) AT&T shall submit a proposed 1984 formula to the Commission on or before June 30, 1983. The association shall submit a proposed revision of the formula for each annual period subsequent to May 31, 1985 or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before November 30 of the preceding year.

Appendix B

Parties filing petitions for further reconsideration or clarification include:

Ad Hoc Telecommunications Users Committee (Ad Hoc)
Aeronautical Radio Inc. (ARINC)
American Communications, Ltd.
American Hospital Association
American Information Technologies Corporation (Ameritech)
Associated Press and Commodity News Services, Inc. (AP and CNS)
Association of Long Distance Telephone Companies (ALTEL)
Bell Atlantic Corporation (Bell Atlantic)
Bell South Corporation (Bell South)
Bunker Ramo-Eltra Corp. (Bunker Ramo)
Cincinnati Bell Telephone Company (Cincinnati Bell)
Combined Network, Inc. (Allnet)[1]
Eagle Telecommunications Inc. (ETI)
General Services Administration and Department of Defense on behalf of the Federal Executive Agencies (GSA)
GTE Corporation (GTE)
GTE Mobilnet Incorporated (GTE Mobilnet)
International Business Machines Corporation (IBM)
International Communications Association (ICA)
Lexitel Corporation (Lexitel)
Massachusetts Department of Public Utilities (Massachusetts)
MCI Telecommunications Corporation (MCI)
National Cable Television Association, Inc. (NCTA)
City of New York
Northwestern Bell Telephone Company, Mountain States Telephone and Telegraph Company and Pacific Northwest Bell Telephone Company (Northwestern Bell)
NYNEX Corporation (NYNEX)
Pacific Telephone and Telegraph Company (Pacific)
RCA Communications Inc. (RCA)
Satelco Incorporated, Teltec Saving Communications Co. and Tel Systems Corporation (Joint Resellers)
Satellite Business Systems (SBS)
Securities Industry Automation Corporation (SIAC)
Southwestern Bell Telephone Company (Southwestern)
Telesphere Network Inc. (TNI)
U.S. Telephone, Inc. (U.S. Tel)

Separate Statement of Mark S. Fowler

Re: 78–72

With this decision an important phase of the *MTS/WATS Market Structure* proceeding draws to a close. Major elements reconsider the pace and timing of the repricing of local access for interstate services. At the same time that we make the decision here to further study the effects on consumers of our access charges approach, I wish to strongly reaffirm that reform in this area is vital if universal service and an efficient telephone network are to be preserved and if fair competition is to be fostered through cost-based pricing of telephone service.

I view treatment of WATS access lines here as a temporary measure that will not change the present WATS discount structure. Dedicated WATS access lines resemble private lines, which do not use the local exchange loop plant jointly with local and intrastate toll services. Hence direct assignment of WATS access lines to interstate services, and their direct pricing for access purposes, appears to be the proper course.

For this reason, this decision endorses in principle the direct allocation of the costs of the closed-end of WATS as the most rational economic method of allocating costs. However, it recognizes a need for further study of the economic impact of such treatment and whether any other regulatory changes would be necessary to accommodate this change from historical usage sensitive treatment of WATS closed-ends.

Long term continuation of usage sensitive charging for WATS access lines would result in high volume subscriber drop-off and harm to universal service. Large users of toll services, such as WATS customers, are prime targets for uneconomic bypass. Usage based pricing of the dedicated WATS line has the potential to accelerate this already serious problem.

[FR Doc. 84-5409 Filed 3-1-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Combined Network changed its name to Allnet Communication Service in November 1983.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1280

Handling of National Security Information and Classified Material

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: These regulations which relate to the handling and safeguarding of national security information supersede the Commission's previous regulations published at 44 FR 54484, September 20, 1979. These regulations implement Executive Order 12356, 47 FR 14874, April 6, 1982 (hereinafter referred to as the Order), and the Information Security Oversight Directive, 47 FR 27836, June 25, 1982 (hereinafter referred to as the Directive). The changes to the rules are ministerial.

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Fristoe, Emergency Coordinator and Assistant to the Director, Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275–7844.

SUPPLEMENTARY INFORMATION: The Order supersedes E.O. 12065, 43 FR 46280, October 5, 1978. No substantive changes are being made in these rules. Only changes of a ministerial nature are involved. The regulations have been submitted to the Information Security Oversight Office for review in accordance with § 5.2(b)(3) of the Order.

The final rule is not subject to the notice and public procedure requirement of Executive Order 12044, March 24, 1978, "Improving Government

Regulations." This is because the changes are only ministerial and the regulations are required to implement a regulatory action of the Information Security Oversight Office and no substantial element of discretion is afforded the rulemaker.

This action is taken under the authority of Executive Order 12356.

List of Subjects in 49 CFR Part 1280

Classified information.

Part 1280 of Title 49 is revised to read as follows:

PART 1280—HANDLING OF NATIONAL SECURITY INFORMATION AND CLASSIFIED MATERIAL

Sec.

1280.1 Purpose.
1280.2 Policy.
1280.3 Authority to classify.
1280.4 Responsibility for handling of classified documents.
1280.5 Safeguarding of classified material.
1280.6 Storage of classified documents.
1280.7 Education of employees.
1280.8 Requests for mandatory review.

Authority: E.O. 12356.

§ 1280.1 Purpose.

To set forth those provisions of the Interstate Commerce Commission Security Regulations to the extent that they affect the general public.

§ 1280.2 Policy.

It is the policy of the Interstate Commerce Commission to act in accordance with Executive Order 12356, dated April 6, 1982, in matters relating to national security information.

§ 1280.3 Authority to classify.

The Commission does not have authority of its own to classify any of its internally generated documents. The only documents handled by the Commission which are classified as confidential, secret, or top secret are those generated by Executive Branch Agencies with original classification authority.

§ 1280.4 Responsibility for handling of classified documents.

(a) Responsible Official. Primary responsibility for the handling of classified documents shall rest with the Assistant to the Director of the Office of Compliance and Consumer Assistance, who is also Emergency Coordinator for the Commission. All documents bearing the terms "Top Secret," "Secret," and "Confidential" shall be delivered to the Emergency Coordinator or his/her alternate immediately upon receipt. The alternate is also an Assistant to the Director of the Office of Compliance and Consumer Assistance as set forth in § 1280.4(b) of the rules. All potential recipients of such documents shall be advised of the name of the Emergency Coordinator. In the event that the Emergency Coordinator or his/her alternate is not available to receive such documents, they shall be turned over to the Associate Director, Office of Compliance and Consumer Assistance, and secured, unopened, in the combination safe located in Room 5325 of the headquarters building until the Emergency Coordinator or alternate is available. All material not immediately deliverable to either the Emergency Coordinator, alternate, or the Associate Director, Office of Compliance and Consumer Assistance, shall be delivered at the earliest opportunity. Under no circumstances shall classified material that cannot be delivered to the Emergency Coordinator be stored other than in the designated safe in Room 5325 of the ICC headquarters building.

(b) The alternate to the Emergency Coordinator for the receipt and handling of documents mentioned in paragraph (a) of this section, shall be the other Assistant to the Director, Office of Compliance and Consumer Assistance.

(c) Any person whose position requires access to classified information must execute Form SF #189.

(d) Any contracts with media representatives by personnel with access to classified material and involving such material will be cleared through the Emergency Coordinator and more than one person shall be present during any briefing or interview.

§ 1280.5 Safeguarding of classified material.

(a) Reproduction of classified material shall take place only when absolutely necessary, and in accordance with section 2001.46 of the Directive. Should copies be made, they are subject to the same controls as the original document. Records showing the number and distribution of copies shall be maintained by the Emergency Coordinator and the log stored with the original documents.

(b) Any suspected or actual unauthorized disclosures of classified information shall be reported to the Emergency Coordinator or Alternate. An immediate investigation will be undertaken by the Emergency Coordinator or Alternate to establish all facts surrounding the disclosure. The Emergency Coordinator or Alternate shall ascertain the nature of the information disclosed and the extent to which it has been disseminated and will maintain records of disclosures as evaluated and investigated.

(c) Any suspected or actual unauthorized disclosure of classified information will be reported as soon as possible to the Department of Justice and the Information Security Oversight Office.

(d) Any unauthorized disclosure of classified information or any failure to cooperate with the investigation of unauthorized disclosures by an employee shall be cause for appropriate disciplinary or other remedial action as provided in the Commission's Canons of Conduct, CFR 1000.735–30.

§ 1280.6 Storage of classified documents.

All classified documents shall be stored in the safe located in Room 5325 of the ICC headquarters building. In those instances where the Emergency Coordinator is not available to receive classified documents, they may be stored, unopened, in the safe located in Room 5325.

§ 1280.7 Education of employees.

All employees who have been granted a security clearance and who have occasion to handle classified materials shall be advised of the procedures outlined in 49 CFR Part 1280. They shall also be required to review Executive Order 12356 and appropriate directives of the Information Security Oversight Office (ISOO). This shall be achieved by a memorandum to all affected employees at the time these procedures are implemented, and by appropriate instructions to new employees receiving security clearances in the future.

§ 1280.8 Requests for mandatory review.

Because the Commission does not itself generate classified documents, any requests made for mandatory review shall be coordinated by the Emergency Coordinator with appropriate officials of the Department or Agency responsible for issuance of the document involved.

Decided: February 1, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-5696 Filed 3-1-84; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1310

[Ex Parte No. MC-158]

Rates for a Named Shipper or Receiver

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rule.

SUMMARY: The Commission has modified 49 CFR 1310.7(a)(5) to eliminate the prohibition against publishing motor common carrier rates for a named shipper or receiver, or to or from a named site. The lawfulness of this form of tariff publication will be determined on the merits, on a case-by-case basis.

Under the present rule, tariffs naming rates for the account of a named shipper or receiver, or to or from a named site, have been rejected as *per se* unreasonably discriminatory. However, in a prior decision, the Commission stated that a determination of unlawful discrimination cannot be made solely from the face of a tariff. Consequently, this rulemaking was instituted to reconsider the exisiting tariff filing rule and to determine whether we should permit the filing of rates for a named shipper or receiver, or to or from a named site, subject to a lawfulness determination on a case-by-case basis.

EFFECTIVE DATES: April 2, 1984.

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. InforSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

A notice of proposed rules (NPR) in this proceeding was served on June 29, 1982, and published in the **Federal Register** on June 30, 1982, 47 FR 28430.

The final rule which has been adopted is set forth in the appendix.

Authority: 49 U.S.C. 10321 and 10762 and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1310

Exports, Freights, Imports, Intermodal competition, Maritime carriers, Motor carriers.

Decided: February 17, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1310—[AMENDED]

In § 1310.7, paragraph (a)(5) is revised to read as follows:

§ 1310.7 Statement of rates (rule 7).

(a) * * *

(5) Rates may be published to or from a specifically named site, as well as for the account of a specifically named shipper or receiver.

* * * * *

[FR Doc. 84–5697 Filed 3–1–84; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 49, No. 43
Friday, March 2, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Defining Savings Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Withdrawal of Federal Register notice.

SUMMARY: On August 2, 1982 the FDIC published a Notice of proposed rulemaking in the **Federal Register** (47 FR 33276). The proposal was to remove the $150,000 maximum balance limitation that applies to savings deposits accepted by commercial banks from corporations, partnerships, associations or certain other organizations. Comments were due by October 1, 1982.

The Board of Directors of the FDIC ("Board") tabled action concerning the adoption of a final rule until the Depository Institutions Deregulation Committee ("DIDC") took action concerning the issue of eligibility for "Super NOW" accounts. The DIDC did not extend the eligibility of "Super NOW" accounts to the types of business entities covered by the proposal. However, Congress is currently considering the issue, and the Board believes it is inappropriate for the FDIC to take any action until Congress acts. Therefore, the Board has voted to withdraw the **Federal Register** notice concerning the proposed rulemaking.

DATE: Withdrawal effective March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Peter M. Kravitz, Senior Attorney, Legal Division, (202–389–4171), 550 17th Street, N.W., Washington, D.C. 20429.

By order of the Board of Directors, February 27, 1984.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 84–5703 Filed 3–1–84; 8:45 am]
BILLING CODE 6714–01–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 40131–09]

Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules providing for a new survey, the BE–11 Annual Survey of U.S. Direct Investment Abroad, to be conducted by the Bureau of Economic Analysis (BEA). The proposed rules would further implement the President's responsibilities for collecting data on U.S. direct investment abroad under the International Investment Survey Act of 1976 (Pub. L. 94–472, Stat. 2059, 22 U.S.C. 3101–3108); these responsibilities were delegated to the Secretary of Commerce, who redelegated them to BEA.

DATE: Any comments on the proposed rules will receive consideration if submitted in writing on or before April 2, 1984.

ADDRESS: Send suggestions, recommendations, or comments to: Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230. All responses to this notice will be available for public inspection from 8:00 a.m. to 4:00 p.m. in room 608, 1401 K Street, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, phone (202) 523–0657.

SUPPLEMENTARY INFORMATION: As proposed, the BE–11 Annual Survey of U.S. Direct Investment Abroad will be mandatory and will be conducted under the authority of the International Investment Survey Act of 1976. The first year of coverage will be 1983. The survey will provide annual time series on important aspects of the operations of U.S. multinational companies and their foreign affiliates, including their services activities and international services transactions. A parallel BE–15 Annual Survey of Foreign Direct Investment in the United States has been conducted by BEA since 1977.

A "notice of consideration" soliciting public comment on the proposed survey was published in the January 26, 1984 **Federal Register**, Volume 49, No. 18 (49 FR 3192). That notice contained additional information on the scope, content, and reporting criteria of the proposed survey.

The survey will collect data on selected items from BEA's comprehensive BE–10 Benchmark Survey of U.S. Direct Investment Abroad—1982. Thus, it will update and maintain the continuity of major items from that survey. However, the volume of data to be reported in the annual survey will be substantially reduced from that required to be reported in the benchmark survey. Because the BE–11 survey will be largely an abbreviated version of the benchmark survey, the BE–11 survey will not be conducted for a year for which that survey is conducted.

The BE–11 survey should, to a significant degree, satisfy the needs of governmental agencies and of the general public, including those interested in the services industries, for current data on the operations of U.S. parent companies and their foreign affiliates. Representatives from user agencies interested in international investment and services transactions have held several meetings to discuss the need for, and reporting criteria of, the survey. The proposed rule reflects the results of those meetings.

The proposed rule amends 15 CFR Part 806 to provide for mandatory reporting in the BE–11 survey.

A report, consisting of a Form BE–11A, Form(s) BE–11B and a Form BE–11C will be required each year of all nonbank U.S. Reporters (as defined in 15 CFR Part 806.14(a)(2)) who, at the end of their fiscal year covered by the report, had one or more nonbank foreign affiliates whose assets, sales, or net income (positive or negative) exceeded an exemption level of $3 million.

For those subject to the reporting requirements, a Form BE–11A will be required of each U.S. Reporter. A Form

BE–11B will be required for each of the U.S. Reporter's majority-owned nonbank foreign affiliates for which any *one* of the following—assets, sales, or net income (positive or negative)—exceeded $10 million. A Form BE–11C will be required on which the U.S. Reporter must list, and provide a few data items for, (a) each of its minority-owned nonbank foreign affiliates for which any *one* of the following—assets, sales or net income (positive or negative)—exceeded $3 million and (b) each of its majority-owned nonbank foreign affiliates for which any *one* of the following—assets, sales or net income (positive or negative)—was more than $3 million but for which *all three* were less than $10 million. Foreign affiliates whose assets, sales, and net income (positive or negative) were each $3 million or less, and U.S. Reporters and foreign affiliates that are banks, are exempt from being reported in the survey.

The legal authorities, provisions, definitions, and requirements presently contained in 15 CFR Part 806 that pertain to U.S. direct investment abroad will be applicable to the BE–11 survey.

The Bureau of Economic Analysis has determined that this proposal is not major under Exeuctive Order 12291.

In response to the suggestions and recommendations received as a result of this notice, BEA will prepare final rules for submission to OMB for approval.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to these proposed rule changes because they will not have significant economic impact on a substantial number of small entities. The $3 million overall exemption level for foreign affiliates will eliminate reporting for most small businesses. Also only a few data items are required for majority-owned foreign affiliates whose assets, sales, or net income are between $3 and $10 million, and for all minority-owned foreign affiliates above the $3 million exemption level.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed rule changes will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and Executive Order 11961.

It is therefore proposed to modify 15 CFR Part 806, as set forth below.

George Jaszi,

Director, Bureau of Economic Analysis.

PART 806—[AMENDED]

In § 806.14(f), add the following paragraph (3):

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) BE–11—Annual Survey of U.S. Direct Investment Abroad: A report, consisting of a Form BE–11A, Form(s) BE–11B, and a Form BE–11C is required of each nonbank U.S. Reporter who, at the end of the Reporter's fiscal year, had a nonbank foreign affiliate exceeding an exemption level of $3,000,000.

(i) Form BE–11A (Report for Nonbank U.S. Reporter). A Form BE–11A must be completed by each U.S. Reporter required to report pursuant to (3) above.

(ii) Form BE–11B (Report for Large Majority-Owned Nonbank Foreign Affiliate): A U.S. Reporter required to report pursuant to (3) above must file a Form BE–11B for each majority-owned nonbank foreign affiliate exceeding an exemption level of $10,000,000.

(iii) Form BE–11C (Report for Minority-Owned Nonbank Foreign Affiliates and Small Majority-Owned Nonbank Foreign Affiliates). This is a schedule-type report on which a U.S. Reporter required to report pursuant to (3) above must list, and provide data on a limited number of items for, (a) each minority-owned nonbank foreign affiliate exceeding an exemption level of $3,000,000, and (b) each majority-owned nonbank foreign affiliate exceeding an exemption level of $3,000,000 but for which none of the three items on which the exemption level is based exceeded $10,000,000.

[FR Doc. 84–5285 Filed 3–1–84; 8:45 am]
BILLING CODE 3510–06–M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Trade Regulation Rule Concerning Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Invitation for rebuttal comments.

SUMMARY: On December 16, 1983, the Federal Trade Commission published an invitation for public comment in the **Federal Register**, 48 FR 55874. This notice invited written public comments on whether provisions of the Used Motor Vehicle Trade Regulation Rule requiring dealers to disclose known defects (16 CFR 455.2(c)) and related sections (16 CFR 455.6 and the Appendix to the rule) should be modified or eliminated. Section 455.2(c) requires that certain major defects delineated in Section 455.6 of the rule must be disclosed if known to the dealer. The Appendix to the rule provides examples to illustrate the concept of "knowledge" for the purposes of the rule. Under the rule, known defects must be disclosed on a window sticker ("Used Car Buyers Guide") which must be posted on used cars offered for sale to consumers. The comment period was originally scheduled to end on January 16, 1984. However, the Commission extended the comment period to January 31, 1984.

The Commission stated in the notice initiating the comment period that, following the close of this period, it would announce a 20 day period for rebuttal submissions. This notice initiates the period for rebuttal submissions.

The Federal Trade Commission invites interested persons to submit rebuttal statements responding to any comments submitted during the comment period announced in the Commission's December 16, 1983 **Federal Register** notice and extended in the January 16, 1984 **Federal Register** notice. All rebuttal comments should identify each comment that is being rebutted.

DATE: Rebuttal comments must be filed by March 22, 1984.

ADDRESS: Rebuttal comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580. All rebuttal comments should be labeled "Sale of Used Motor Vehicles."

FOR FURTHER INFORMATION CONTACT: Lemuel W. Dowdy, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, (202) 523–3911.

SUPPLEMENTARY INFORMATION: Copies of Documents submitted during the comment period announced in the Commission's December 16, 1983 **Federal Register** notice and extended in the Commission's January 16, 1984 **Federal Register** notice may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

List of Subjects in 16 CFR Part 455

Trade practices, Used motor vehicles.

By direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 84-5737 Filed 3-1-84; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[EE-16-81]

Second Tier Excise Taxes

Correction

In FR Doc. 84-3805 beginning on page 5350 in the issue of Monday, February 13, 1984, make the following correction:

§ 53.4942 [Corrected]

On page 5353, in § 53.4942(c)(1)(ii), first column, last line, "4842(a)" should have read "4942(a)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Public Comment and Opportunity for Public Hearing on Modified Portions of the New Mexico Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for requesting a public hearing on the substantive adequacy of a program amendment submitted by New Mexico to satisfy a condition imposed by the Secretary of the Interior on the approval of the New Mexico permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment submitted by New Mexico for the Secretary's approval includes modifications to regulations concerning bonding.

DATES: Written comments not received on or before 4:00 p.m. April 2, 1984 will not necessarily be considered in the Secretary's decision on whether the proposed amendment satisfies the condition. A public hearing on the proposed modification has been scheduled for March 27, 1984 at 10:00 a.m. at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address below by March 19, 1984. If no person has contacted Mr. Hagan by this date to express an interest to participate in this hearing, the hearing will not be held. If only one person has so contacted Mr. Hagen, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the State of New Mexico, Energy and Mineral Department, Mining and Minerals Division, Map Room, 525 Camino De Los Marquez, Santa Fe, New Mexico.

Written comments should be mailed or hand-delivered to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW, Albuquerque, New Mexico 87102.

Copies of the proposed modifications to the New Mexico program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Headquarters Office, the OSM Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Admninistrative Record Room, 1100 L Street NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Field Office, 219 Central Avenue NW., Albuquerque, New Mexico 87102

Energy and Minerals Department, Division of Mining and Minerals, 525 Camino De Los Marquez, Santa Fe, New Mexico 87501, Telephone: (505) 827-5451.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Field Office Director, Office of Surface Mining, 219 Central Avenue NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459-86490).

In accepting the Secretary's conditional approval, New Mexico agreed to submit provisions to satisfy conditions (a)-(d) and (f)-(l) by July 1, 1981, and a provision to meet condition (e) by February 28, 1982. Subsequently, New Mexico requested that the deadline for the State to meet conditions (a)-(d) and (f)-(l) be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. In response to a further request by the State in December 1981, the Secretary reexamined conditions (a)-(c) and (e)-(l) in light of proposed and final changes to the Federal permanent program rules. As a result of that reexamination, the Secretary decided to remove conditions (a) and (k), to extend the deadline for the State to meet condition (b), (c), (f), (g), (i), and (l) to July 31, 1982, and to extend the deadline for the State to meet conditions (e), (h) and (j) to March 15, 1983 (47 FR 23150-23153, May 27, 1982).

On February 28, 1982, New Mexico submitted to OSM a policy statement to satisfy condition (d). Following a review of that material as outlined in 30 CFR 732, the Secretary determined that the amendment submitted by the State satisfied condition (d). Notice of the Secretary's decision to remove that condition was published in the Federal Register on May 27, 1982 (47 FR 23153-23155). On July 9, 1982, New Mexico submitted regulatory revisions adopted by the New Mexico Coal Surface Mining Commission on that date to satisfy conditions, (b), (c), (f), (g), (i) and (l). Following OSM's review of those provisions, the Secretary removed conditions (c), (f), (g) and (i) and extended the deadline for the State to satisfy conditions (b) and (l) until March 15, 1983.

On February 14 and 15, New Mexico submitted program modifications intended to satisfy conditions (h), (l) and (b). On March 15, 1983, the State also requested by letter an extension of the deadline for the State to satisfy condition (j) pertaining to the State's bonding regulations. Following OSM's review of those modifications, the Secretary on June 20, 1983 (48 FR 28086) removed conditions (h), (l), and (b). The Secretary also granted on June 20, 1983, New Mexico's request for an extension to satisfy condition (j).

Proposed Amendments

The Secretary's approval of the New Mexico program was conditioned on the State correcting minor deficiencies in its bonding regulations. On February 8, 1984, the State of New Mexico submitted to OSM an amendment to its permanent

regulatory program intended to satisfy condition (j). The amendment consists of five sections. The first section is a repeat of Parts 14, 15, 16, 17 and 18 of Chapter J of Rule 80–1 pertaining to bond and insurance requirements for surface coal mining and reclamation operations. The second section is the withdrawal of 19 definitions relating to bonding from Part 1 of Chapter A of Rule 80–1. The third portion of the amendment is the addition of 10 definitions relating to bonding to Part 1 of Chapter A of Rule 80–1. The fourth section of the amendment is the addition of language at Part 14 of Chapter J of Rule 80–1 to replace the repeated language discussed above. The last section of the amendment is a revision to the index of Rule 80–1 reflecting the above changes. The amendment is intended to implement State program counterparts to the Federal regulations at 30 CFR Part 800 relating to bonding.

OSM is seeking comment on whether the New Mexico proposed modifications are no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by New Mexico for OSM's consideration is available for public review at the addresses listed under "ADDRESSES."

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 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 sections 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 931

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: February 28, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–5754 Filed 3–1–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8–R, Amdt. No. ——]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility of Adult Adoptees for Medical Benefits

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed amendment of rule.

SUMMARY: This amendment clarifies the intent of title 10, U.S.C. 1072(2), concerning eligibility of adopted children. This amendment is necessary to ensure that reasonable limits are placed on CHAMPUS eligibility. This clarification will result in uniform eligibility determinations corresponding to the intent of Congress.

DATES: Written public comments must be received on or before April 2, 1984.

ADDRESS: Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS), Policy Branch, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT: Rose M. Sabo, Policy Branch, OCHAMPUS, telephone (303) 361–4014.

SUPPLEMENTARY INFORMATION: In FR. Doc. 77–7834, appearing in the Federal Register on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DOD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Section 199.9 discusses eligibility for CHAMPUS benefits and states that a dependent child may receive medical benefits beyond age 21 when that child has a pre-existing condition which renders him or her incapable of self-support. The incapacity must be continuous. If the incapacity significantly improves or ceases at any time after age 21, even if such incapacity subsequently recurs, CHAMPUS elgibility cannot be reinstated.

Recently, some confusion has arisen on cases involving adoption of an adult dependent (over the age of 21) by a military sponsor when an incapacity existed prior to the age of 21.

Governing directives generally have been perceived as a continuation of benefits to dependents entitled prior to age 21. To be consistent with the intent of the law and ensure uniformity, a provision is being added which clarifies that a dependent adopted after the age of 21 is not eligible for CHAMPUS.

This amendment is being published for proposed rulemaking at the same time it is being coordinated within the Department of Defense, with the Department of Health and Human Services, and with other interested agencies so that consideration of both internal and external comments and publication of the final rule can be expedited.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

PART 199—[AMENDED]

Accordingly, 32 CFR Chapter I, is proposed to be amended as follows:

In § 199.9, paragraphs (a)(2)(iv)(*a*)(*2*) and (a)(2)(iv)(*b*)(*2*) are revised to read as follows:

§ 199.9 Eligibility.

(a) * * *

(2) * * *

(iv) *Child.* * * *

(*a*) *Child of active duty member.* * * *

(*2*) An adopted child whose adoption has been legally completed. For eligibility under this provision, adoption must take place on or before the child's twenty-first birthday.

* * * * *

(*b*) *Child of retiree, or deceased member or retiree.* * * *

(*2*) An adopted child whose adoption has been legally completed. For eligibility under this provision, adoption must take place on or before the child's twenty-first birthday.

* * * * *

Note.—We have determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is not, therefore, a "major rule" under Executive Order 12291. We certify that this amendment will not have a signficant impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Dated: February 24, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-5367 Filed 3-1-84; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42054; TSH-FRL 2500-1]

Aniline and Chloro-, Bromo- and/or Nitroanilines; Response to the Interagency Testing Committee

Correction

In FR Doc. 83-34650, beginning on page 108, in the issue of Tuesday, January 3, 1984, on page 109, in the third column, in the second line, the first "4(a)(1)(B)(ii)" should read "4(a)(1)(A)(ii)".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 528

[Docket No. 83-55]

Self-Policing Requirements for Section 15 Agreements; Indefinite Stay of Proceeding

AGENCY: Federal Maritime Commission.

ACTION: Indefinite stay of proceeding.

SUMMARY: The Notice of Proposed Rulemaking in this proceeding was published in the **Federal Register** of December 9, 1983 (48 FR 55144), with comments required to be filed by March 8, 1984. By order dated February 23, 1984, the Commission denied the request to three Pacific Cost conferences to extend the comment period to April 30, 1984. The Commission has received petitions from numerous conferences and agreements seeking similar extensions of the comment period or an indefinite stay of this proceeding until passage of pending Shipping Act legislation (the Shipping Act of 1984, S. 47) These petitions generally cite the likelihood that this pending legislation will be passed in the very near future, which petitioners believe will necessitate changes in the rules proposed herein. Accordingly, they believe that requiring comments at this time on the currently proposed rules would be an unproductive and unnecessarily costly and burdensome exercise.

Upon further review of this matter, the Commission has determined that these petitions have merit. Recent Congressional action indicates that the pending legislation is very close to passage. The area of self-policing will face changes under this new law, and the Commission believes that staying the proceeding will avoid potentially unnecessary filings without doing harm to the basic rationale behind the proposed rules. This stay can be lifted at the appropriate time to seek comments on whatever rules develop in response to the new legislation, or to go forward with the currently proposed rules should the pending legislation not become law.

Therefore, it is ordered, that this proceeding is stayed indefinitely.

DATE: Comment period indefinitely stayed.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-5757 Filed 3-1-84; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

American Lobster Fishery

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

ACTION: Notice of availability of fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council has submitted an amendment to the fishery management plan for the American Lobster Fishery (FMP) for review by the Secretary of Commerce (Secretary) and is requesting comments from the public. The amendment proposes changes to provisions prohibiting the retention, in a portion of the Gulf of Maine, of lobsters marked with a V-notch. The amendment is intended to improve the enforceability of the V-notch measure and is in response to the conditional approval of Section 649.20(f) of the FMP implementing regulations.

DATE: Comments on the amendment should be submitted on or before March 27, 1984.

ADDRESS: All comments should be sent to Bruce Nicholls, Lobster Management Coordinator, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Clearly mark "Comments on Amendment to the Lobster Plan" on the envelope. Copies of the revised FMP, the amendment, and revised environmental impact statement/regulatory impact review are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Lobster Management Coordinator, 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) at section 304(b)(3)(B) requires that each regional fishery management council submit any revised fishery management plan or amendment it prepares to the Secretary for review and approval or disapproval. The act also requires that the Secretary, upon receiving the revised plan or amendment, must immediately publish a notice that the revised plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the revised plan or plan amendment.

The amendment proposes new provisions of the FMP and implementing regulations which will prohibit the taking, in portions of the Gulf of Maine, of female lobsters marked with a v-notch. That provision of the FMP and implementing regulations expired on January 4, 1984. The Council has respecified the area in the Gulf of Maine where the prohibition will apply and has provided for a permit endorsement for vessels wishing to fish in the area, which will facilitate enforcement of the measure at the dock. These changes

were made to address concerns which led the Secretary to partially disapprove the V-notch portion of the FMP and implementing regulations.

Proposed regulataions, based on this amendment will be published within 10 days.

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

List of Subjects in 50 CFR Part 649

Fisheries, Fishing.

Dated: February 27, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-5719 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 43
Friday, March 2, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding the Management of Francis E. Warren, Air Force Base in Cheyenne, Wyoming

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the U.S. Air Force, Department of Defense, and the Wyoming State Historic Preservation Officer, providing for the protection of historic and cultural properties in connection with the operation and maintenance of the Base. The proposed Programmatic Memorandum of Agreement will establish mechanisms through which historic and cultural properties will be identified, evaluated, and managed in order to meet the requirements of section 106 and 110(f) of the National Historic Preservation Act of 1966 (16 U.S.C. 470(f)).

Comments due: April 2, 1984.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Divisions of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401.

Dated: February 27, 1984.

Frank L. Suman,

Acting Executive Director.

[FR Doc. 84-5701 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Small Business Innovation Research Program for Fiscal Year 1984; Solicitation of Applications

Correction

In FR Doc. 84-5119, appearing on page 7190 in the issue of Monday, February 27, 1984, make the following corrections:

1. In the first column, first line of the first paragraph, "under" should appear between "that" and "the".

2. In the second column, third line of the first full paragraph, "$689,00" should read, "$680,000".

BILLING CODE 1505-01-M

Forest Service

Boise National Forest Grazing Advisory Board; Meeting

The Boise National Forest Grazing Advisory Board will meet at 1 p.m., April 5, 1984, in Conference Room A, Boise National Forest, 1750 Front Street, Boise, Idaho 83702. The purpose of this meeting is to discuss range allotment management plans and use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Boise National Forest, 1750 Front Street, Boise, Idaho 83702, phone 208-334-1232. Written statements may be filed with the committee before or after the meeting.

Dated: February 22, 1984.

James W. Conibear,

Administrative Officer.

[FR Doc. 84-5658 Filed 3-1-84; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended February 24, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Feb. 21, 1984	42012	Servicios Aereos, S.A., d/b/a Aero California, c/o Laurence A. Short, Short, Klein & Karas, Suite 303, 1101 Thirtieth Street, N.W., Washington, D.C. 20007 Application of Servicios Aereos, S.A., d/b/a Aero California pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a foreign air carrier permit to engage in non-scheduled foreign air transportation of persons and property between any point in the United States and any point in Mexico. Answers may be filed by March 20, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-5758 Filed 3-1-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41696]

Hawaiian Pacific Airlines Fitness Investigation; Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding which had been scheduled to be held before the undersigned Chief Administrative Law Judge on March 9, 1984, is hereby postponed until March 13, 1984, in Room 1027 in the Universal Building, 1825 Connecticut Ave., N.W., Washington, D.C. at 9:30 a.m. (local time).

Dated at Washington, D.C., February 28, 1984.

Elis C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-5759 Filed 3-1-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Current Population Survey—July 1984 Summer Student Supplement
Form Numbers: Agency—CPS-1, CPS-260; OMB-N/A
Type of Request: New collection
Burden: 12,000 respondents; 192 reporting hours
Needs and Uses: The collected data will provide the Bureau of Labor Statistics (BLS) with the number of students 16-24 years old who are in the summer labor force, enabling BLS to have a full year of data on the labor force activity of students.
Affected Public: Individuals or households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-5729 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 2030. Applications may be examined between 8:30 a.m. and 5:00 p.m. in room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 82-00372R. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Quadrupole Residual Gas Analyzer. Original notice of this resubmitted application was published in the **Federal Register** of November 15, 1982.

Docket No. 83-182. Applicant: Walter C. McCrone Associates, Inc., 2920 South Michigan Avenue, Chicago, IL 60616. Instrument: Electron Microscope, Model JEM-200CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: In addition to routine analyses (i.e., contamination or material failures) research projects will include studies of a wide range of advance materials, high strength metals and alloys, high temperature alloys, heavy metal alloys, composite materials, glasses, ceramics and polymers and a variety of natural mineral bearing materials. The principal research areas include: The analysis of various materials for the presence of asbestos, analysis of welds in stainless steels, aluminums and other metals and analyses of very fine particles and catalyst material. Application received by Commissioner of Customs: April 28, 1983.

Docket No. 84-53. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Polorization Neutron Spectrometer. Manufacturer: Franke & Hydrick KG, West Germany. Intended use: Study of both spin-dependent phenomena and non-spin dependent cross sections as well. By the use of spin flippers and modulators the neutron beam is modulated to provide a high resolution instrument capable of studying a great variety of phenomena including: Non periodic and aperiodic systems, non linear systems, non-equilibrium systems and low dimensional systems. Application received by Commissioner of Customs: January 9, 1984.

Docket No. 84-54. Applicant: New York State Department of Health, Empire State Plaza, Albany, NY 12220. Instrument: Electron Microscope, Model EM 420T. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Intended use: Studies of biological specimens, including (but not restricted to) cell membranes, ribosomes, enzyme complexes and muscle proteins. The objective of the experiments to be conducted is to define the 3-dimensional structure of the biological systems under study, with the goal of understanding how these systems perform their biological functions. Application received by Commissioner of Customs: December 22, 1983.

Docket No. 84-55. Applicant: Duke University, Department of Anatomy, Durham, NC 27710. Instrument: Electron Microscope, Model EM 420T with Accessories. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use: Instrument will be used for the following research projects:

(1) Structure and assembly of protein molecules visualized by electron microscopy,
(2) Structure and behavior of muscle crossbridges,
(3) 3-D reconstruction of the membrane of urinary bladder epithelial cells,
(4) 3-D Reconstruction of crystalline membranes, normal and cataract lens, from metal replicas of fractured and etched surfaces,
(5) 3-D structure of rhodospin,
(6) Radiation damage during electron microscopy at liquid helium, liquid nitrogen and intermediate temperatures and
(7) Cryo-electron microscopy.

Application received by Commissioner of Customs: December 29, 1983.

Docket No. 84-57. Applicant: The Johns Hopkins University, Room G-08 Physiology Building, Charles and 34th Streets, Baltimore, MD 21218. Instrument: Cryo Transfer System. Manufacturer: Carl Zeiss, West Germany. Intended use: Biological specimens such as protein molecules and supramolecular assemblies of proteins (e.g. helical arrays or 2-dim protein crystals) will be analyzed structurally in the electron microscope in their frozen hydrated stage, which in

turn requires a high resolution cryo stage and a cryo transfer container. Application received by Commissioner of Customs: January 25, 1984.

Docket No. 84–58. Applicant: Trustees of the University of Pennsylvania, Purchasing Department, 3451 Walnut Street/16, Philadephia, PA 19104. Instrument: Toroidal Ion Energy Analyzer, Model HVE–3290. Manufacturer: High Voltage Engineering, The Netherlands. Intended use: Research in the area of the basics of semiconductor surface physics (clean semiconductor surfaces and metal-semiconductor interfaces). Fundamental studies of clean metal surfaces (reconstructed metal surfaces and vibrational amplitudes). Studies of adsorbed and segregated atoms on metals—implications for chemical reactivity. Application received by Commissioner of Customs: January 25, 1984.

Docket No. 84–59. Applicant: President and Fellows of Harvard College, Purchasing Department, 1350 Massachusetts Avenue, Cambridge, MA 02138. Instrument: STEM System for Scanning Transmission Electron Microscope. Manufacturer: N.V. Philips, Electron Optics Dept., The Netherlands. Intended use: The instrument is an accessory to an existing electron microscope which will be used to obtain real space images and diffraction information of a broad range of materials—including semiconductors, superconductors, metallo-organics, polymers, metallic alloys, ceramics and compositionally modulated compounds. The research to be conducted will cover a broad range of interests in solid-state chemistry and physics, materials science, catalysis, geology and astrophysics. Application received by Commissioner of Customs: January 25, 1984.

Docket No. 84–60. Applicant: Virginia Commonwealth University, Department of Physiology and Biophysics, Box 551, 1101 E. Marshall St., Richmond, VA 23298. Instrument: (2) Hydraulic Micromanipulators, Model MO–102 with 3-axes of motion. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended use: Studies of the electrical activity of isolated heart cells to determine membrane permeabilities and ionic distributions with standard electrophysiological techniques using microelectrodes. Application received by Commissioner of Customs: January 25, 1984.

Docket No. 84–61. Applicant: University of Maryland, Department of Microbiology, College Park, MD 20742. Instrument: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: JEOL, Japan. Intended use: Studies of viruses, bacteria, fungi, protozoa, algae, eucaryotic cells, tissues, whole invertebrate animals, macromolecules, and other biological specimens during varied experiments. Educational purposes in various microbiology courses for undergraduate and graduate students. Application received by Commissioner of Customs: January 25, 1984.

Docket No. 84–62. Applicant: Hospital of the Good Samaritan, Electron Microscopy Laboratory, 616 S. Witmer, Los Angeles, CA 90017. Instrument: Electron Microscope, Model JEM–100CX with Accessories. Manufacturer: JEOL, Japan. Intended use: The studies of biological material to include material from human surgical specimens, donated material, and autopsy material. The objectives of these studies are to obtain refinement of data regarding the morphology of cancer cells and the tissues they comprise and correlation of structure at the submicroscopic level with disease parameters and eventual outcome. Application received by Commissioner of Customs: January 25, 1984.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–5686 Filed 3–1–84; 8:45 am]

BILLING CODE 3510–DS–M

Duke University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83–348. Applicant: Duke University, Durham, NC 27710. Instrument: Combined Scanning Interferometer and Densitometer and Accessories. Manufacturer: Vickers Instruments, Ltd., United Kingdom. Intended use: See notice at 48 FR 56094.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides quantitative scanned or spot microcytophotometry by integrating optical path differences. The National Institutes of Health advises in its memorandum dated January 12, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–5690 Filed 3–1–84; 8:45 am]

BILLING CODE 3510–DS–M

The Regents of the University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No. 83–358. Applicant: The Regents of the University of California, Riverside, CA 92521. Instrument: Research Sonar & Apparatus for Maintenance. Manufacturer: University of Canterbury, New Zealand. Intended Use: See notice at 48 FR 56094.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument, a small, lightweight (1 ounce) air sonar sensor, provides indicators of distance, direction and type of object to simulate some features of vision. The National Institutes of Health advises in its memorandum dated January 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5687 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Swarthmore College; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Consitution Avenue, NW., Washington, D.C.

Docket No. 83-327. Applicant: Swarthmore College, Swarthmore, PA 19081. Instrument: Temperature-Jump Spectrophotometer System. Manufacturer: Dia-log-Gesellschaft Für Digital-Analogue Datentechnik, GmbH, West Germany. Intended use: See notice at 48 FR 52619.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) high sensitivity for changes in absorbance (10-5), (2) efficient fluorescent light collection, and (3) rapid detection of fast relaxation (1-2) microseconds). The National Institutes of Health advises in its memorandum dated January 12, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director Statutory Import Programs Staff.

[FR Doc. 84-5688 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-DS-M

Tulane University School of Medicine; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83-357. Applicant: Tulane University School of Medicine, New Orleans, LA 70112. Instrument: Stereo-microscope with Lighting and Photography Systems. Manufacturer: Wild Heerbrugg, Switzerland. Intended use: See notice at 48 FR 56094.

Comments: None received.

Decision: approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an integrated brightfield/darkfield, heat-free lighting system permitting visualization of unstained low-contrast material. The National Institutes of Health advises in its memorandum dated January 23, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of not other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5689 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-013]

Certain Steel Valves and Certain Parts Thereof From Japan; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary antidumping determination involving certain steel valves and certain parts thereof from Japan is being postponed at petitioners' request. We intend to issue the preliminary antidumping determination not later than March 30, 1984.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; Telephone (202) 377-4087.

SUPPLEMENTARY INFORMATION: On October 11, 1983, we initiated an antidumping investigation to determine whether certain steel valves and certain parts thereof from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the antidumping law (48 FR 48267). The merchandise covered by this investigation is wedge gate, swing check, and globe valves, and certain parts of the foregoing, of steel currently provided for item number 680.17 of the Tariff Schedules of the United States. The notice of initiation stated that if the investigation proceeded normally we would make our preliminary determination on or before February 29, 1984.

Section 733(c) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if petitioner makes a timely request for an extension of the period within which the determination must be made. On February 8, 1984, counsel for petitioners requested that we postpone the determination for not more than thirty days. On February 9, we granted that request and notified all parties. We intend to issue a preliminary determination no later than March 30, 1984.

This notice is published pursuant to section 733(c) of the Act.

Dated: February 26, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-5730 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit: Michael Graybill

Correction

In FR Doc. 84-4642 appearing on page 6526, in the issue of Wednesday, February 22, 1984, in the third column, in paragraph "3.", in the second line, "(Phoca Vitulina)." should read "(Phoca Vitulina) 300."

BILLING CODE 1505-01-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Clini-Therm Corporation, having a place of business at Dallas, Texas, an exclusive right to manufacture, use, and sell products embodied in the invention, "Improved Helical Coil for Diathermy Apparatus," U.S. Patent Application Serial No. 6-461,954. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents.

[FR Doc. 84-5651 Filed 3-1-84; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Nichols Institute, having a place of business at San Juan Capistrano, California, an exclusive right to manufacture, use, and sell products embodied in the invention, "Cerebrospinal Fluid Protein Fragments," U.S. Patent 4,205,057. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents.

[FR Doc. 84-5652 Filed 3-1-84; 8:45 am]

BILLING CODE 3501-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add and delete from Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: April 4, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 5120

Vise, Multiposition: 5120-00-991-1907

Class 6532

Slippers, Convalescent Patient's: 6532-00-079-7889, 6532-01-011-5056, 6532-01-011-5055, 6532-01-011-5057

Class 7510

Binder, Looseleaf: 7510-00-889-3494

Class 8135

Chipboard: 8135-00-579-8457

Class 9905

Plastic Shade Block, 8" × 12" with wire stake: 9905-00-NSH-0158, (Requirements for the U.S. Forest Service, Kootenai National Forest, Libby, Montana; Beaverhead National Forest, Dillon, Montana; and Helena National Forest, Helena, Montana only)

SIC 7349

Janitorial Service, IRS Center, 4800 Buford Highway, Chamblee, Georgia

Janitorial Service, U.S. Post Office and U.S. Courthouse, 245 East Capitol Street, Jackson, Mississippi

SIC 7369

Cage Cleaning, Food and Drug Administration, Federal Office Building #8, 200 C Street, SW., Washington, D.C.

Deletion

It is proposed to delete the following service from Procurement List 1984, October 18, 1983 (48 FR 48415):

SIC 7349

Janitorial/Custodial, U.S. Army Reserve Center, Buildings 85 and 90, Hingham, Massachusetts

C. W. Fletcher,

Executive Director.

[FR Doc. 84-5709 Filed 3-1-84; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: March 2, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 5, 1983, October 14, 1983, November 14, 1983, December 9, 1983 and December 23, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 35695, 48 FR 46832, 48 FR 51679, 48 FR 55157, and 48 FR 56820) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–49c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

CLASS 5831

Amplifier Subassembly: 5831–00–087–3408

CLASS 7510

Clip, Binder: 7510–00–223–6807
Clip, Binder: 7510–00–285–5995

CLASS 7520

Stand, Calendar Pad: 7520–00–139–4277 (Total Government Requirement)
7520–00–162–6156 (GSA Regions 1, 2, 3, and W

SIC 0782

Grounds Maintenance, Base Chapel Building 2600, Buildings 4592 and 4593, Bergstrom Air Force Base, Texas

SIC 7349

Janitorial/Custodial, McChord Air Force Base, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 84–5711 Filed 3–1–84; 8:45 am]

BILLING CODE 6820–33–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 82–1]

1981 Cable Royalty Distribution Determination

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of royalty fees paid by cable systems for secondary transmissions during 1981.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brennan, Chairman, Copyright Royalty Tribunal (202) 653–5175.

Introduction

17 U.S.C. 111(d)(5)(B) requires the Tribunal after the first day of August to determine whether a controversy exists concerning the distribution of cable royalty fees deposited by cable systems with the Copyright Office. Upon determination that a controversy exists, 17 U.S.C. 804(d) requires the Chairman of the Tribunal to publish in the **Federal Register** a notice announcing the commencement of distribution proceedings.

In a notice published in the **Federal Register** of October 8, 1982 (47 FR 44606), the Tribunal directed that claimants to royalty fees paid by cable operators for secondary transmissions during 1981 submit not later than November 12, 1982 any comments concerning whether a controversy exists concerning the distribution of the 1981 royalty fees.

The Tribunal on March 2, 1983 published in the **Federal Register** (48 FR 8848) its determination that a controversy did exist concerning the distribution of cable royalty fees for the period January 1 through December 31, 1981.

Background and Chronology

On May 6, 1983, the Motion Picture Association of America, the Joint Sports Claimants, the Public Broadcasting Service, the Music Claimants and National Public Radio (the "Settling Parties") filed with the Tribunal an agreement in which they agreed to seek in the 1981 distribution proceeding a single aggregate award which would be divided among them "in the proportions determined by their individual Phase I awards in the 1979 and 1980 distribution proceedings (with the proviso that NPR's share shall not be reduced below 0.25 percent of the total fund)." Subsequently the National Association of Broadcasters and the Canadian Claimants agreed to resolve the Phase I proceeding on the basis of the Tribunal's 1979 and 1980 awards.

On September 29, 1983, the Settling Parties, NAB, the Canadian Claimants and the Devotional Claimants filed with the Tribunal a Stipulation resolving the remaining Phase I issues, and a motion to conclude Phase I of the proceedings. The Stipulation provided in part that the "share of the Devotional Claimants in the 1981 cable royalty fund shall be the same percentage share as ultimately awarded to them, whether jointly or individually, as a result of the 1979 Distribution Proceeding." The Tribunal granted the motion and concluded Phase I of the Proceeding.[1]

The Tribunal commenced Phase II of the proceeding, in which the Tribunal resolves disputes among claimants within the Phase I categories. The evidentiary hearings were held on January 9, 10, 11, 12, 23 and 25, 1984. The Tribunal ordered the parties to submit proposed findings of fact and conclusions of law on February 8, 1984.

PHASE II—EVIDENTIARY SUMMARY

Motion Picture Association of America (MPAA) and Associated Program Suppliers

The MPAA, representing 71 program suppliers, claimed 97.845% of the 70% Phase I allocation to the Program Suppliers category.

Consistent with § 111(d)(5)(A) of the Copyright Act and the Tribunal's encouragement of voluntary settlements, the MPAA and Associated Program Suppliers agreed among themselves as to the individual division of royalty fees to be awarded and agreed to lump their claims together as a "single claim" in the Phase II proceeding.[2]

The MPAA and Associated Program Suppliers group is comprised of a variety of small, medium and large size program syndicators and producers. Included in the group are several large broadcast station owners that regularly engage in syndication activities.[3]

[1] 48 FR 46411, October 12, 1983.

[2] Program Suppliers Proposed Findings of Fact and Conclusions of Law, on Phase II Issues, February 8, 1984, p. 2.

[3] MPAA Exhibit C.

As in previous distribution proceedings, the primary basis for the MPAA claim was a Neilsen Comparative Viewing Study of Distant Signals. The MPAA encouraged the Tribunal to adopt the Neilsen study as the most administratively feasible and equitable approach in determining the entire Phase II award.

The MPAA contended that individual program suppliers awards are based entirely on the Neilsen Study.[4] The number of MPAA Program Suppliers that have agreed to settle on the basis of the Neilsen Study has grown progressively from 45 in 1979; to 52 in 1980; to 71 in 1981.[5]

The basic methodology of the MPAA 1981 Neilsen Study does not vary significantly from previous years studies. However, in the 1981 study, television stations included in the sample increased from 82 stations in 1980 to 89 stations in 1981, in order to reflect the continuing growth of cable carriage of distant signals. The 1981 station sample was determined on the basis of the number of subscribers to form 3 cable systems with a cutoff point of 100,000 distant subscribers compared to a cutoff point of 75,000 in 1980.[6]

The MPAA testified that the 89 sample stations accounted for approximately 85% of the total incidents of full time distant carriage of all television stations in the United States. The individual program data from the Neilsen Study included approximately 836 series and program titles, not including movies.[7] In contrast, the MPAA contended that the National Association of Broadcasters' (NAB) claim appeared to cover approximately 18–19 series titles and 60 specials, while Multimedia's claim apparently included only 9 series and 10 specials.[8] Neither NAB or Multimedia claimed any movies.

The MPAA contended that the Neilsen Study provides an effective means of comparatively quantifying the Tribunal's primary criteria of harm and benefit.

Mr. Alan Cooper, Vice President of MPAA, testifies that relative viewing of programs carried on distant cable systems is an effective indicator of relative harm in that it represents the degree to which local television stations in those distant markets are losing potential viewers for the same programs, thus reducing the value of the syndicators programs to those local stations. The relative popularity of programs, as determined by viewing, provides a means of estimating the benefit to cable systems of particular distantly retransmitted programs.[9] Mr. Paul Gerhold, an advertising, marketing and research consultant testified that the Tribunal's secondary criteria of quality was difficult comparatively to quantify. However, Mr. Gerhold contended that viewing performance of programs was in fact an important ultimate measure of quality.[10]

The MPAA proposed the following allocation among parties:

Program Suppliers	97.845%
Multimedia Entertainment Inc.	1.011%
NAB	0.444%
SIN	0.700%

National Association of Broadcasters (NAB)

NAB presented a claim for the syndicated programming of approximately 40 television stations and presented in evidence a listing of approximately 95 individual programs.[11] Its claim for 2% was based on an improved evidentiary showing from that of 1979 and upon changed circumstances.

With respect to an improved evidentiary showing, NAB's list of programs in Exhibit F was intended to provide hard evidence of secondary carriage of station syndicated programming. In addition NAB presented the expert testimony of Dr. John Abel, NAB Senior Vice President of Research and Planning, and of John Corporon, President of Independent Network News, to underline the value of this programming to cable operators. With respect to changed circumstances, NAB cited the introduction of Independent Network News in 1980 and the repeal by the FCC of syndicated exclusivity in 1981.

The listing of 95 programs from 40 stations on Exhibit F was a compliation from several hundred respondents to a questionnaire sent to 500 broadcast claimants: It contained the originating station of the syndicated programming, the identification by name of the program itself, the station carrying it, and distant cable subscribers. Dr. Abel provided, in addition, testimony concerning the interest to cable operators and subscribers of individual programs, in particular childrens programs, news programs, and regional programs, as well as the diversity they provide, and the contrast of this interest and diversity with that of syndicated reruns.[12] INN in particular was cited as an example of the quality and diversity of station syndicated programming.[13] Dr. Abel, however, testified that Exhibit F did not constitute a complete list of all stations syndication in 1981, and that such a list would be prohibitively expensive to complie.[14]

NAB argued that the repeal of syndicated exculsivity by the FCC in 1981 enchanced the value of local station programming because, as a result, nationally syndicated programs suffer increased duplication and lose value in comparison.[15] This is in addition to the greater value station syndication already enjoys due to its relatively lower duplication by cable.

NAB presented as the greatest change in circumstance between 1979 and 1981 the advent of INN, Independent Network News, a satellite distributed news service originated by WPIX in New York that went on the air in June 1980 and grew from a broadcast on 30 stations in 1980 to one on nearly 70 stations by the end of 1981.[16] Mr. Corporon testified that INN was particularly beneficial to cable operators from the standpoint of the diversity it provided.[17] A study showing the comparative cumulative audiences of INN and network news programs for February 1982 was presented to demonstrate INN's broad appeal.[18] The study was intended to reveal the degree to which INN reaches different television households and the proportion of its cumulative audiences viewed in basic and pay cable household.[19] Mr. Corporon also testified that fresh daily news programs are more demanding and expensive to produce than syndicated reruns.[20] NAB urged that the Tribunal take the promotion of creativity into account in making its award.[21]

NAB proposed the following allocation among all parties:

NAB	2.0%
Multimedia	2.0%
Sin	0.7%
MPAA (syndicated series & movies)	95.3%

[4] Ibid A.
[5] Ibid C. Transcript p. 150.
[6] Transcript p. 773.
[7] MPAA Exhibit D, Transcript p. 157.
[8] Program Suppliers Proposed Findings of Fact and Conclusions of Law on Phase II Issues, February 8, 1984, p. 9, Footnote 6.
[9] Ibid, p. 10.
[10] Transcript pp. 688–9.
[11] NAB Exhibit F.
[12] National Association of Broadcasters Findings of Fact, February 8, 1984, pp. 11–15.
[13] *Ibid*, p. 15.
[14] *Ibid*, p. 19.
[15] *Ibid*, p. 21.
[16] *Ibid*, p. 28.
[17] *Ibid*, p. 24.
[18] NAB Exhibit C.
[19] NAB Findings of Fact, p. 24.
[20] *Ibid*, p. 26.
[21] *Ibid*, p. 27.

Multimedia Entertainment, Inc. (MULTIMEDIA)

Multimedia proposed that its award be 2.61% of the Program Suppliers share if the Tribunal granted its motion to dismiss certain MPAA claims, and 2.10% if the motion were denied.

Multimedia presented evidence seeking to justify its claim with respect to each of the Tribunal's distribution criteria. An advertising study first introduced by Multimedia in 1979 was again updated and used to provide a measure of the marketplace value of *Donahue* in 1981. It showed that *Donahue*, only one part of Multimedia's program offerings, accounted for 1.64% of advertising dollars in 1981.[22] Multimedia asserted that the study showed an increase of 15% over the 1980 results. Evidence was presented to show that, in addition to being virtually identical in content and format, Multimedia programing was substantially similar to that of 1980 in popularity.[23] Applying the Tribunal's criteria, Multimedia asserted that its situation was "substantially unchanged" from 1980. Multimedia in 1981 continued to be uniquely disadvantaged by the cable importation of WGN–TV's live *Donahue* program.[24]

With respect to the Tribunal's time factor, Multimedia updated its earlier studies. It was claimed that Multimedia accounted for approximately 3.77% of all non-network program hours during 1981.[25]

Multimedia's justification for an increase in its award rested mainly on its evidence concerning the *Donahue* and Show Biz programs in relation to the findings of the Tribunal in its 1980 determination. Multimedia, using MPAA data, showed that the household viewing hours of *Donahue* approximately equalled the combined shares of the Merv Griffin and Mike Douglas programs.[26]

Under Multimedia's proposed allocation, the award to each group of claimants, inlcuding the aliquot share of unclaimed funds would be, if the Tribunal granted its motion concerning certain MPAA claims:

Multimedia	2.61
MPAA	96.09
NAB	1.30

If the Tribunal denied its motion concerning certain MPAA claims, the awards proposed by Multimedia would be:

Multimedia	2.10
MPAA	96.85
NAB	1.05

Phase II Motions

The Tribunal has granted the December 19, 1983 motion of the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC to dismiss the claim of A.C.E.M.A.A. and Latin American Music Co., Inc. on the grounds that the claim does not establish that its works were the subject of any secondary transmission by a cable system, and such carriage is not otherwise established in the record.

The Tribunal has denied the January 3, 1984 motion of the MPAA and other settling program suppliers to strike the NAB exhibits submitted in Phase II of this proceeding, and has denied the alternative motion to strike Exhibit NAB/CT(81)–C, a Nielsen Television Index Special Study regarding the NAB-claimed program "Independent Network News." The justification asserted for striking the exhibits in their entirety was "that NAB has failed to establish which claimants, if any, it is authorized to represent in Phase II of this proceeding." The justification asserted for the alternative motion was that the NBA exhibit presents the results of viewing in 1982.

The Tribunal resolved that striking all the NAB exhibits because of uncertainty as to the identity of the claimants it represented was no more a proper response than to deny all royalties to a claimant because of a defect in its claim. The Tribunal subsequently granted the MPAA motion to direct NAB to list the claimants it was representing in Phase II. The Tribunal denied the motion to strike NAB/CR(81)–C, in accordance with a series of prior rulings receiving into evidence information relating to years other than the particular year of the cable royalty fund proceeding. The Tribunal adheres to its previous rulings that the issue is more properly one of the weight to be accorded to the evidence rather than its admissibility.

The Tribunal has denied the January 24, 1984 motion of Multimedia to dismiss 14 MPAA represented claims as invalid because of asserted failure to comply with the requirements of the Tribunal's regulations as to the content of cable claims. Thirteen of these claimants made supplemental filings in September or October 1983. We denied the Multimedia motion for the reasons set forth in our 1979 determination.[27] We are satisfied that evidence in this record establishes that programs of each of the claimants with possible technically defective claims were carried as distant signals and qualify for entitlement under the rules of the Tribunal.

PHASE II ALLOCATIONS

MPAA

The MPAA and Associated Program Suppliers claimed 97.845% of the 70% Phase I allocation to the program syndicators category. The joint claim of the MPAA and Associated Program suppliers is consistent with section 111(d)(5)(A) of the Copyright Act and the Tribunal's encouragement of voluntary settlement.

The Tribunal reaffirms its agreement with all parties that voluntary agreements promote the objectives of the Copyright Act. However, the Tribunal embraces its position taken in a previous distribution proceeding, that—when a distribution case is presented, the Tribunal must decide the issues on the basis of the evidence and the private agreements reached by parties in voluntary settlements cannot substitute for the Tribunal's Judgment.[28]

The primary basis for the MPAA and Associated Program Suppliers' Phase II claim was a 1981 Neilsen comparative viewing study of distant signals. As in past Phase II proceedings, the Tribunal has accorded substantial weight to these viewing data, but has not relied upon these data as the sole basis for our distribution allocations.

On the basis of all relevant evidence in this record, we have awarded 96.9% to the MPAA and Associated Program Suppliers.

NAB

The Tribunal does not consider the NAB presentation concerning station syndication for 1981 sufficient as a basis upon which to grant an award different from that granted in 1979. We do not believe that a claimant's award may be justifiably increased simply on the basis of changed circumstances or additional evidence without an adequate measure against which to judge either the change in circumstances or the weight of the additional evidence. The nature of NAB's 1989 claim, however understandable at the time, was illustrative and, as characterized previously, insufficient [29] and when contrasted with the 1981 claim, fails to provide such a measure. The Tribunal cannot simply add credit to an earlier award for programming that was

[22] Multimedia Proposed Findings of Fact and Conclusions of Law, p. 7.
[23] Ibid, p. 6.
[24] Ibid, p. 12.
[25] Multimedia, Exhibit 4.
[26] Multimedia Proposed Findings of Fact and Conclusions of Law, p. 18.
[27] 47 FR 9895, March 8, 1982.
[28] 47 FR 9895, March 8, 1982.
[29] FR Vol. 47, No. 45, p. 9896.

previously non-existent, or on the basis of new evidence, without adequate assurance that all the components of the earlier award are also still present. The incompleteness and non-comparability of the 1979 data [30] made such a determination impossible. On the contrary, it is highly implausible. Between 1980, when a stipulated award was reached and 1981, the component elements of the NAB represented claim changed substantially.[31]

Also, as NAB stressed, this is only the second year in which the Tribunal has been able to assess the Phase II station syndication claim on the basis of presented evidence; and in the aggregate of that evidence, including NAB's submissions concerning changed circumstance, new evidence, and qualitative value, we do not find support for an award of the 2% magnitude urged by NAB. However intrinsically valuable Independent Network may be, it must necessarily be placed in context with other distantly carried syndicated programming. Cumulative audience comparisons for February 1982 with network news programs did not provide such a context.[32] Nor was the Tribunal able to extract a meaning from the tabulation of the number of distant signal subscribers who may conceivably view a signal; these figures failed to reveal whether subscribers were actually interested in the programs or if the relevant programs were in fact carried.[33] TheTribunal has never relied exclusively upon the Nielsen survey, .444% in this case for NAB, but to the extent that we weigh it as a relative indication of viewer interest and distant signal carriage, we do not find support in it for NAB's claim.[34] We are, however, sympathetic to the difficulties encountered by small claimants in supplying such data themselves.[35]

We again reject the position of MPAA that we should determine our award solely by the Nielsen viewing data. We adhere to our earlier conclusions that the Nielsen data are at most a useful starting point for the applications of our criteria.[36] MPAA views the 1981 evidence as establishing that the programs "lost" to NAB's claim more than offset any gain from INN or other new programs, and that such an offset requires that a lower award be given. Applying the same standard to the evidence as in the 1980 determination,[37] we find that none of this evidence "was such as to specifically result in the increase or decrease of a particular claimant's share."

We did not consider that the contributions of smaller broadcast station syndication, in terms of the Tribunal's criteria, was of major importance. According to NAB's own standard of measure, its claim was principally for major station syndication originating in large markets.[38] We viewed that the relatively minor importance of smaller station syndication was corroborated by NAB's difficulty in obtaining information concerning it, as referred to earlier.[39]

Finally, the Tribunal was unpersuaded that the repeal of syndicated exclusivity in 1981 had a material effect which enhanced the value of broadcasters' syndication with respect to other syndicated programming. Independent Network News, INN, which constitutes the largest element of NAB's claim, suffered as much relative distant signal importation as other syndicators and therefore cannot be inferred to have been affected differently by the repeal of syndicated exclusivity.[40] In the case of smaller station syndication, as their damage from cable importation was less, it would be unfair to compensate them then at the expense of the more heavily damaged programming of other syndicators.[41]

For the foregoing the Tribunal considers the same award appropriate as was granted in 1979: .8%.

Multimedia

Asserting that the situation with respect to its programming and the marketplace value of its programming were substantially unchanged from 1980, Multimedia seeks in increase in its 1980 award mainly on the basis of its evidence concerning the Donahue show and the Show Biz programming in relation to the Tribunal's findings on these matters in the 1980 determination. We are being asked to revisit our 1980 conclusions, and we decline to do so in this proceeding. an independent examination of the claim on the basis of the entire record supports an award of 1.6% of the Program Suppliers share to Multimedia.

We reaffirm our previous findings that the record evidence supports a finding as to the marketplace value, particular benefit to cable operators, and quality of Multimedia's programs. We find that Multimedia in 1981 continued to be uniquely disadvantaged by the live carriage of *Donahue* over cable systems retransmitting WGN-TV.

We again reject the position of MPAA that our award to Multimedia should be determined solely by the Nielsen viewing data. We adhere to our earlier conclusions that the Nielsen data are at most a useful starting point for the applications of our criteria.[42]

MPAA views the 1981 evidence as establishing that "Multimedia's evidence on virtually every indicator showed a substantial downward trend since 1980." Applying the same standard to the evidence as in the 1980 determination,[43] we find that none of this evidence "was such as to specifically result in the increase or decrease of a particular claimant's share." We do not find in the 1981 record a significant change in the appeal and marketplace value of the Multimedia programs.

Spanish International Network (SIN)

A Phase II award of 0.7 percent of the Program Suppliers' share was stipulated to by the parties participating in the Phase II proceeding. The Tribunal did not hear evidence or testimony with regard to the claim of the Spanish International Network.

Music

As discussed elsewhere in this document, we granted the motion to dismiss the claim of A.C.E.M.A.A. and Latin American Music Co., Inc.

The Tribunal finds that the claim of Sammie Belcher, Jr. does not establish that any work of which he may be the copyright owner was the subject of a secondary transmission during 1981, nor was any evidence submitted in justification of the claim. We make no award to Sammie Belcher, Jr.

In a letter of October 21, 1983, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc. noted that they had previously filed with the Tribunal an agreement providing for the distribution among them of their music claims to the 1981 cable royalties. On the basis of the entire record, we award the total Phase II Music share to the designated common agent for ASCAP, BMI and SESAC.

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[30] 1979 TR p. 9720–22, 9732–36.

[31] 1981 TR 722; MPAA Ex. FF, MPAA Ex. U, NAB Ex. F.

[32] NAB Ex. C, 1981 TR 485.

[33] TR 592–595, and 714.

[34] MPAA Ex. D and EE.

[35] TR 331, 359, 527, 622.

[36] 47 FR 9895; 48 FR 9568.

[37] 48 FR 9564.

[38] NAB Ex. F, TR 384.

[39] TR 331, 359, 527, 622.

[40] TR 524–525.

[41] TR 524–525.

[42] 47 FR 9895, March 8, 1982; 48 FR 9568, March 7, 1983.

[43] 48 FR 9564.

Unclaimed Funds: We have not employed any single formula in our Phase II allocation and have not found it necessary to create an unclaimed fund.

DISTRIBUTION OF CABLE ROYALTY FEES

(Financial statement of royalty fees for compulsory licenses for transmissions for cable systems for 1981)

Royalty fees deposited	$30,268,661.79
Interest income	191,656.26
Gain on matured securities	5,510,726.16
Total	35,971,044.21
Less:	
Operating costs of the Copyright Office	355,916.00
Refunds issued	994,464.51
Approximate CRT Administrative Costs	8,000.00
Public Law 97-276 & Public Law 98-51 Allocations	145,800.00
Total	1,504,180.51
Royalty Fees Previously Distributed	29,131,212.48
Approximate amount for distribution on March 22, 1984	5,335,651.22

The Tribunal for lack of any justification has not awarded cable fees to claimants who:

1. Were not associated with Phase II voluntary agreement, or
2. Could not reasonably on the basis of this record be treated according to the terms of voluntary agreements, or
3. Which did not submit adequate entitlement justification.

Thomas C. Brennan,

Chairman.

February 28, 1984.

[FR Doc. 84-5712 Filed 3-1-84; 8:45 am]

BILLING CODE 1410-10-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95-202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on February 7, 1984, that the service of the members of the group known as the U.S. Civilian Volunteers Who Actively Participated in the Defense of Bataan be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

For further information contact: Lt. Col. Phelps, telephone 692-4743, Office of the Secretary of the Air Force Personnel Council, (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-5657 Filed 3-1-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 21, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on the Feasibility of Air Force Logistics Command's Network Architecture will meet at the Oklahoma City Air Logistics Center, Tinker Air Force Base, Oklahoma, on March 20, 1984.

The purpose of the meeting will be to obtain background information on design and management plans for AFLC Logistics Force Structure Management System. The meeting will be held from 8:00 a.m. to 5:00 p.m.

The meeting will be open to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-5656 Filed 3-1-84; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Transition Program for Refugee Children; Applications for Grants

AGENCY: Office of Bilingual Education and Minority Languages Affairs, Department of Education.

ACTION: Application Notice for Fiscal Year 1984.

Applications are invited for grants under the Transition Program for Refugee Children.

Authority for this program is contained in Section 412(d)(1) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (Pub. L. 96-212), and the Refugee Assistance Amendments of 1982 (Pub. L. 97-363). (8 U.S.C. 1522(d))

Eligible applicants are State educational agencies.

This program supports educational activities designed to meet the special needs of eligible refugee children and to enhance their transition into American society.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by April 16, 1984.

Applications delivered by mail: An application sent by mail must be addressed to Dr. R. Rudy Cordova, Director, Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 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 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 Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, Room 421, Reporters Building, 300 7th Street, SW., Washington, D.C.

The Division of State and Local Programs will accept a hand-delivered application 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 after 4:30 p.m. on the closing date.

Program information: The regulations (34 CFR 538.21) for the Transition Program for Refugee Children provide in part that, to receive a grant under the program, a State educational agency must submit a count of the number of eligible children in its State taken on a date specified by the Secretary in a notice published in the **Federal Register**. The Secretary establishes any day within the period of March 12, 1984 through March 30, 1984 as the date on which a State Educational agency shall conduct a count of the children eligible

for assistance under the Transition Program for Refugee Children.

A grant is made to a State educational agency based on the number of eligible children enrolled in public and nonprofit private schools in the State, using the weighting factors announced in this notice. Using the same weighting factors, the State educational agency awards subgrants to local educational agencies in the State that propose to serve eligible children within their jurisdictions. As provided in 34 CFR 538.20, the State educational agency makes subgrants to local educational agencies within 60 days after the State receives the grant award funds. When a local educational agency does not apply for funds to serve its eligible children, the State educational agency provides services directly to those children or arranges for provision of services to those children through subgrants, contracts, and cooperative agreements with other public and private nonprofit organizations, agencies, and institutions. Awards under this program are to provide educational services to eligible children during the 1984–1985 school year.

Weighting factors: The program regulations in 34 CFR 538.31 authorize the Secretary to announce the weighting factors to be used in distributing funds under this program. For the award of fiscal year 1984 funds, the Secretary uses the following formula for funds distribution:

Regency of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	3	5
2 to 3	0	3
3 to 4	0	0
More than 4	0	0

Available funds: It is expected that approximately $16.6 million will be available for grants to State educational agencies. These funds are the fiscal year 1984 appropriation.

It is estimated that these funds will provide approximately $250 of assistance per eligible child. However, the approximate amount of funds available per eligible child may increase or decrease depending on the total number of eligible children that the States report.

These estimates, however, do not bind the U.S. Department of Education to specific numbers of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

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 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 have selected this program for review:

State

Arizona	Montana	Texas
Arkansas	Nebraska	Utah
California	Nevada	Vermont
Connecticut	New Jersey	Virginia
Florida	New Mexico	Washington
Georgia	New York	Wisconsin
Hawaii	North Dakota	Wyoming
Indiana	Ohio	Guam
Kentucky	Oklahoma	Virgin Islands
Louisiana	Oregon	Northern Mariana Islands
Maine	Rhode Island	
Michigan	South Carolina	
Missouri	South Dakota	

Immediately upon receipt of this notice, applicants that are governmental entities 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. 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 June 15, 1984, to the following address:

The Secretary, U.S. Department of Educations, Room 4181, 84.146, 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 COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Application forms: Application forms and program information packages will be mailed to all State educational agencies. Additional forms and program information packages may be obtained by writing to the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information package is 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 strongly urges that the narrative portion of the application not exceed four pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Transition Program for Refugee Children

(34 CFR Part 538) published on January 14, 1981 (46 FR 3678).

(2) Regulations governing the Refugee Resettlement Program (45 CFR Part 400) published on September 9, 1980 (45 FR 59818).

(3) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 76, 77, 78, and 79), except as otherwise provided in 34 CFR Part 538.

FOR FURTHER INFORMATION CONTACT: For further information, contact the Application Coordinator for the Transition Program for Refugee Children in the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-2922.

(8 U.S.C. 1522(d))

(Catalog of Federal Domestic Assistance Number 84.146, Transition Program for Refugee Children)

Dated: February 27, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84-5740 Filed 3-1-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Compliance With the National Environmental Policy Act; Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting on Long-Term Management of Existing Radioactive Materials in the Vicinity of Weldon Spring, Missouri

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the U.S. Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) on the long-term management of existing radioactive materials at two DOE sites in the vicinity of Weldon Spring, Missouri: (1) The Weldon Spring Raffinate Pits, and (2) the Weldon Spring Quarry.

SUMMARY: Two DOE sites in the vicinity of Weldon Spring, Missouri, contain radioactive materials as a result of activities conducted in support of Federal programs. The DOE, through its Surplus Facilities Management Program, is currently evaluating long-term management alternatives for the radioactive materials at these sites: the Weldon Spring Raffinate Pits and the Weldon Spring Quarry. In addition to engineering and cost considerations, DOE will factor consideration of potential environmental impacts into its decisions by preparing an EIS on long-term management of the radioactive materials now at the Raffinate Pits and Quarry sites.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions to assist DOE in identifying significant environmental issues and determining the appropriate scope of the EIS. Comments may be submitted by mail or presented at a scoping meeting to be held at the following location:

Gymnasium of the Francis Howell High School (located on State Route 94) in St. Charles, Missouri, on March 20, 1984, starting at 7:30 p.m.

Upon completion of the Draft EIS, its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the Draft EIS will be considered in preparing the Final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to: Mr. L. F. Campbell, Deputy Director, Technical Services Division, Oak Ridge Operations Office, U.S. Department of Energy, P.O. Box E, Oak Ridge, TN 37830, (615) 576-1052.

Envelopes should be marked "Scoping for Weldon Spring Project."

General information on the process followed by DOE in preparing environmental impact statements may be obtained from: Office of Environmental Compliance, PE-25, Office of the Assistant Secretary for Policy, Safety, and Environment, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Washington, DC 20585, (202) 252-4610

DATES: Written comments postmarked by March 30, 1984, will be considered in preparation of the Draft EIS. Comments postmarked after that date will be considered to the maximum extent practicable. A scoping meeting will be held at the location and time given previously. Requests to speak at this meeting should be received by Mr. L. F. Campbell at the above address by March 16, 1984. Requests to speak may also be made during registration for the meeting.

Background

The radioactive materials under consideration are located at two sites near Weldon Spring, Missouri. The Weldon Spring Raffinate Pits site is located in St. Charles County about 23 km (14 mi) southwest of St. Charles and 48 km (30 mi) west of St. Louis. The site is situated near State Route 94, about 3 km (2 mi) southwest of the junction of State Route 94 and U.S. Route 40. The Weldon Spring Quarry site is located about 7 km (4 mi) southwest of the Raffinate Pits site. The Quarry site is situated between State Route 94 and Femme Osage Creek, about 1.6 km (1 mi) from the Missouri River.

Weldon Spring Raffinate Pits. The Weldon Spring Raffinate Pits site is located at the eastern end of the former Weldon Spring Ordnance Works (WSOW), which was operated by the Department of Army from 1941 to 1944. In the mid-1950s, use of and responsibility for 89 ha (220 acres) of WSOW were transferred to the U.S. Atomic Energy Commission (AEC), which constructed and operated a uranium and thorium processing facility at the Weldon Spring Chemical Plant, from 1957 to 1966. The radioactive residue (raffinates) generated by processing uranium and thorium concentrates were transferred to four onsite pits (the Raffinate Pits) for storage. After closure by AEC, the Weldon Spring Chemical Plant was acquired by the Army in 1967 for herbicide production, but the project was cancelled prior to becoming operational. The 21-ha (52-acre) portion of the site that contains the four raffinate pits was transferred back to AEC in 1971. As successor to AEC, DOE now has responsibility for maintenance of the Raffinate Pits site. The site is fenced with a 2-m (7-ft) chain link fence topped with barbed wire and is closed to the public. Site security is maintained through arangements with the Army, and access to the site is limited to roads and gates controlled by the Army or DOE. Operations at the site are currently restricted to site caretaking and management of the stored radioactive materials.

The four raffinate pits occupy about one-half of the 21-ha (52-acre) Raffinate Pits site and have a total capacity of approximately 500,000 m^3 (650,000 yd^3). The pits were constructed by excavating into the existing clay formation and using the removed clay for construction of the levees surrounding the pits. Raffinate Pits 1 and 2 were constructed in 1958, side by side, on nearly level terrain; each pit covers an area of about 0.5 ha (1.2 acres) with a depth of about 2.9 m (9.6 ft). The levees of these two pits are approximately 1 m (3 ft) above the surrounding grade. Pits 1 and 2 each have a design volume of approximately 14,000 m^3 (19,000 yd^3) and contain about 13,000 m^3 (17,000 yd^3) of radioactive residues from past uranium refining and metal production operations at the Weldon Spring Chemical Plant.

Pit 3 was constructed in 1959 with a design volume of approximately 13,000 m^3 (170,000 yd^3), a surface area of approximately 3.4 ha (8.4 acres), and a depth of about 3.7 m (12 ft). The natural terrain slopes downward toward the west boundary so that the levees around Raffinate Pits 3 and 4, although effectively at the same elevation as those around Pits 1 and 2 are, in fact, much higher with respect to the original grade. A portion of the levee in the northeast corner of Pit 3 was constructed on existing terrain so that the levee is about 7 m (23 ft) above original grade in that area. Pit 3 contains approximately 99,000 m^3 (130,000 yd^3) of radioactive residues from past uranium refining and metal production operations at the Weldon Spring Chemical Plant.

Pit 4 was constructed in 1964 with a design volume of approximately 340,000 m^3 (440,000 yd^3), a surface area of aobut 6 ha (15 acres), and a depth of about 5.6 m (18 ft). The east levee of Pit 4 is common to the west levee of Pit 3. The elevations of the tops of the levees of Pits 3 and 4 are the same. The west levee of Pit 4 extends about 11 m (35 ft) above the existing grade at its maximum elevation. Approximately 43,000 m^3 (56,000 yd^3) of radioactive materials are stored in Pit 4, and the residue fill is irregular. Overflow from Pit 3 is designed to flow into Pit 4 through a connecting pipe 2 m (7 ft) below the top of the common levee.

The residues contained in Pits 1, 2, and 3 consist mainly of neutralized raffinates from uranium refining operations and washed slag residues from uranium metal production operations. Pit 4 contains some of the same residues that are present in Pits 1, 2, and 3 plus raffinate solids from the processing of thorium recycle materials. Pit 4 also contains drums and rubble dumped during partial decontamination of the Weldon Spring Chemical Plant by the Army. All pit drains have been sealed, and the residues are covered with water for most of the year. In the hot, dry summer months, the surface water in Pits 1 and 2 may evaporate, leaving the residues exposed. The level of water in Pits 3 and 4 also varies, but historically there has always been some suface water present.

Based on aerial radiological surveys, some properties in the vicinity of the Raffinate Pits and Chemical Plant appear to be slightly contaminated with radioactivity. These properties include drainage areas, an Army easement area, access roads, and rail spurs that were used to transport radioactive materials to the site. Detailed radiological surveys of these properties will be conducted in the summer and fall of 1984. Decontamination of contaminated properties and disposal of radioactive materials are included in the proposed action.

DOE has also reviewed an additional potential action: making available the Raffinate Pits site for disposal of radiactive materials resulting from decontamination and demolition of facilities at the Weldon Spring Chemical Plant, if the Army decides to undertake such an action, and if the Raffinate Pits site proves suitable for long-term management. However, the Army believes that DOE should assume responsibility for the Weldon Spring Chemical Plant, and has requested the Office of Management and Budget to decide which agency shall have responsibility for the Chemical Plant. Until this issue is resolved, the Army has declined to participate as a cooperating agency to examine disposal of the Chemical Plant wastes at the Raffinate Pits; therefore, this potential action is not included within the proposed scope of the EIS.

Weldon Spring Quarry. The Weldon Spring Quarry site occupies about 3.6 ha (9 acres) and currently contains radioactive materials from previous disposal activities. The Quarry hole was created as a result of quarrying the limestone outcrop, and the upper elevations of the Quarry hole are well above the surrounding terrain. The main Quarry hole covers an area of about 0.8 ha (2 acres); the deepest 0.2 ha (0.5 acres) of this area is currently filled with water.

Prior to its acquistion by AEC, the Weldon Spring Quarry was used by the Army for disposal of rubble contaminated with trinitrotoluen (TNT). The Quarry was acquired by AEC in 1958 for the purpose of developing it into a disposal site for low-level radioactive materials. In 1959, the AEC used the Quarry to dispose of about 140m^3 (190 yd^3) of drummed 3.8% thorium residues; the drums were placed at an elevation that is below the current Quarry water level. In 1963 and 1964, the Mallinckrodt Chemical Works uranium-processing plant—which has been used as a production facility for uranium trioxide (UO_3), uranium tetrafluoride (UF_4), and uranium metal—was demolished and, as a result, about 38,000 m^3 (50,000 yd^3) of uranium- and radium-contaminated building rubble, process equipment, and soil materials were disposed in the Quarry. This buried rubble covers about 0.4 ha (1 acre) of the Quarry floor to a depth of about 9 m (30 ft).

In 1966, about 420 m^3 (560 yd^3) of drummed 3% thorium residues resulting from the decontamination of process equipment at the Weldon Spring Chemical Plant were disposed in the Quarry. During the same year, the Army covered the thorium residues with TNT-contaminated stone and soil materials. Finally, in 1968–1969, the Army placed the last materials in the Quarry. These materials were uranium- and thorium-contaminated process equipment and building rubble that resulted from the Army's decontamination of portions of the Weldon Spring Chemical Plant. The volume of materials resulting form this decontamination effort was about 4,200 m^3 (5,600 yd^3).

Current activities at the Weldon Spring Quarry are limited to site caretaking and management of the stored materials. The Site is fenced and access to the site is controlled by DOE. For the most part, the radioactive materials in the Quarry are covered and the area backfilled. However, there are two areas in which people could pick up loose materials contaminated with alpha-emitting radionuclides on boots, shoes, or pantlegs if they intrude onto the Quarry site. These areas are the result of previous storage at the Quarry site of loose surficial piles of processed uranium residues, which were transported via rainwater runoff along the surface of the site. Since 1969, no chemical or radioactive materials have been placed in the Quarry. The total volume of radioactive materials currentl in the Quarry is about 43,000 m^3 (56,000 yd^3). The total volume of materials resulting from decontamination of the Quarry is estimated to be about 99,000 m^3 (130,000 yd^3).

Based on aerial radiological surveys, some properties in the vicinity of the Quarry site appear to be slightly contaminated with radioactivity. These properties include drainage areas and access roads and rail spurs that were used to transport radioactive materials to the site. Detailed radiological surveys of these properties will be conducted in the summer and fall of 1984. Decontamination of contaminated properties and disposal of radioactive materials are included in the proposed action.

Preliminary Definition of Alternatives To Be Considered in the EIS

DOE is currently considering several alternatives for disposition of the radioactive materials currently located at the Raffinate Pits and Quarry sites as well as contaminated vicinity properties.

Alternative 1: No Action—Continue to store the radioactive materials now at the Raffinate Pits and Quarry sites and take no action for the contaminated vicinity properties. Continue surveillance, monitoring, and periodic maintenance of the sites as required.

Alternative 2: Improved Containment—Move the radioactive materials from the Quarry site and vicinity properties to the Raffinate Pits site and improve containment to reduce potential for offsite contamination. This could involve modifying the form of the radioactive materials now at the Raffinate Pits and Quarry sites. The Raffinate Pits site would continue to be maintained and monitored by DOE as required. This is DOE's preferred alternative.

Alternative 3: Long-Term Management at Another Site—Remove all radioactive materials from the Raffinate Pits and Quarry sites and vicinity properties and transport them to another site for long-term management. Following removal of the radioactive materials, the sites would be restored as appropriate.

3a: *Long-Term Management at Another DOE-Owned Site*—Remove the radioactive materials from the Raffinate Pits and Quarry sites and vicinity properties and transport them to an existing DOE-owned site. The Hanford site in the state of Washington is being considered for this alternative, using long-term management by near-surface burial. The Hanford site would continue to be maintained and monitored by DOE as required.

3b: *Long-Term Management at a New Site in Missouri*—Remove the radioactive materials from the Raffinate Pits and Quarry sites and vicinity properties and transport them to a new site (not yet identified) for long-term management. For purposes of analysis, the new site is assumed to be established in the state of Missouri approximately 160 km (100 mi) from Weldon Spring. Analysis of impacts at this stage will be based on the use of available regional data. If this alternative is selected, DOE would look to the state of Missouri for identification of a disposal site that would then be developed and managed by DOE.

In addition to the alternatives being considered for the Raffinate Pits and Quarry sites and vicinity properties, DOE is proposing to analyze various options for implementing these alternatives including: (a) Use of an above-ground engineered disposal facility for long-term management, and (b) subsidized processing of these radioactive materials to extract uranium and thorium.

DOE believes that the above alternatives encompass the range of reasonable alternatives to be considered by the DOE decision-maker for management of the radioactive materials at the two DOE sites. Comments on the scope and definition of these alternatives, as well as suggestions of other reasonable alternatives that the DOE decision-maker should consider, are invited via the scoping process described below.

Preliminary List of Potential Issues

There are a number of potential issues associated with the abovementioned alternatives. Some of these issues deal with potential environmental impacts, whereas others are factors that may influence or be influenced by implementation of one or more of the alternatives. Following is a list of major issues that may require analysis in the EIS:

1. *Potential radiological impacts:*
   - On people, including workers and the general public individuals and the total population, present and future generations;
   - In terms of both radiation doses and resulting health risks;
   - Near the DOE sites, along transportation routes, and near other sites included in the alternatives;
   - Associated with routine operations, accidents, and severe natural phenomena (e.g., earthquakes, floods, tornadoes);
   - Assoicated with various pathways to man—including soil, surface waters, and groundwaters; gases, dust, and particulates; and the food chain;
   - Due to natural forces such as erosion; and
   - Associated with human instrusion into the contaminated materials.
2. *Potential socioeconomic impacts:*
   - Associated with land uses and the value and marketability of properties near the sites and along transportation routes to long-term management sites; and
   - On local transportation systems.
3. *Potential chemical impacts:*
   - Associated with contamination of land, surface waters, and groundwaters by heavy metals, organic contaminants, and other pollutants.
4. *Potential engineering and technical issues:*
   - Most reasonable engineering options for each of the DOE sites, e.g., removal and treatment of water from the Raffinate Pits, decontamination procedures for the Quarry;
   - Probable duration of isolation of the radioactive materials; rates and magnitude of loss of containment;
   - Site-specific geological and hydrological conditions, e.g., depth of overburden above bedrock at the Raffinate Pits site, permeability and depth of clay beneath the Raffinate Pits site;
   - Site-specific meteorological conditions; and
   - Site characterization and additional research and development prior to a decision or before actual implementation of an alternative.
5. *Potential institutional issues:*
   - Project-specific criteria for decontamination, effluents, environmental concentrations, and release of a site for unresticted or restricted uses;
   - Future institutional controls (monitoring and maintenance); and
   - Institutional issues that need to be resolved before an alternative can be implemented.
6. *Potential issues relative to mitigative measures and monitoring:*
   - Measures to control dispersion to the environment;
   - Long-term monitoring and maintenance needs; and
   - Measures that could be taken to reduce impacts under each of the alternatives.

This preliminary list is based on DOE experience with major issues that have been raised relative to other DOE proposals of this nature. Interested parties are invited to participate in the scoping process discussed below and to help refine this list to arrive at the significant issues to be anlayzed in-depth in the EIS and to eliminate from detailed study the issues that are not significant.

Scoping

The scoping process will involve all interested agencies (Federal, state, and local), groups, and members of the public. Comments are invited on both the alternatives and the issues to be considered in the EIS. A public scoping meeting will be held at the following location: Gymnasium of the Francis Howell High School (located on State Route 94) in St. Charles, Missouri, on March 20, 1984, starting at 7:30 p.m.

This will be an informal meeting with a presiding officer, and DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be

heard, DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting; they will be called on to present their comments if time permits. Both oral and written comments will be considered and will be given equal weight.

A transcript of the public scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, during business hours, Monday through Friday. Additional copies of the public scoping meeting transcript and other NEPA documents and major references used in the preparation of the EIS will also be made available during normal business hours at the following location and at other locations as appropriate: St. Charles City/County Library, Spencer Road Branch, 425 Spencer Road, P.O. Box 529, St. Peters, Missouri 63376.

A notice of locations where these documents will be available will be published in the **Federal Register** at the time of announcement of availability of the Draft EIS. In addition, copies of the public scoping meeting transcript will be made available for purchase.

Those interested parties who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS should notify Mr. L. F. Campbell at the address given in the Address section of this Notice.

Dated at Washington, DC, this 22nd day of February, 1984, for the United States Department of Energy.

Jan W. Mares,

Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 84-5664 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Proposed Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the Proposed Coordinating Subcommittee of the Committee on the Strategic Petroleum Reserve will meet in March 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Proposed Coordinating Subcommittee meeting follows:

The Proposed Coordinating Subcommittee will hold a meeting on Tuesday, March 6, 1984, starting at 10:00 a.m., in the Mt. Vernon Room of the Sheraton-Carlton, 16th and K Streets, Washington, D.C.

The tentative agenda for the Proposed Coordinating Subcommittee meeting follows:

1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request addressing various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide.

2. Discuss an organizational structure for the study.

3. Discuss a timetable for completion of the study.

4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Proposed Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Proposed Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on February 24, 1984.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 84-5665 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-83-012; FC Case No. 67004-9032-20-24]

Corporation Order Granting to United States Borax & Chemical Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order Granting to United States Borax & Chemical Corporation an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or "the Act") to United States Borax & Chemical Corporation (Borax). The cogeneration exemption permits the use of natural gas and/or No. 2 fuel oil as the primary energy source in a proposed 45 megawatt (MW) combined cycle cogeneration facility at Borax's plant located in Boron, California. The final exemption order and detailed information on the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on May 1, 1984 section 702(a), FUA).

The public file containing a copy of the order, other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-033, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-2993.

Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-141, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-6739.

SUPPLEMENTARY INFORMATION: On May 2, 1983, Borax petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas and/or No. 2 fuel oil as the primary energy

source in a proposed 45 MW cogeneration powerplant to produce electricity and steam at Borax's plant in Boron, California. The cogeneration facility will consist of a natural gas-fired combustion turbine, with No. 2 fuel oil backup capability, and a natural gas-fired duct burner unit associated with a heat recovery steam generator. The facility will operate on a continuous basis producing 45 MW of electric power and 380,000 pounds per hour of steam. As more than 50 % of the net annual electric power generation will be sold to the public utility grid, the cogenerator is an electric powerplant by FUA definition in 10 CFR 500.2.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including Borax's certification to ERA in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with § 503.37(b); and

2. The use of a mixture of petroleum and natural gas and an alternate fuel in the cogeneration facility for which an exemption under § 503.38 of the final rules would be available, would not be economically or technically feasible.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of the Petition and Availability of Certification in the Federal Register on August 2, 1983 (48 FR 35008), commencing a 45-day public comment period. [1]

Copies of the petition were provided to the Enviromental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were also afforded an opportunity to request a public hearing. The comment period closed on September 16, 1983; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Order Granting Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Borax has satisfied the eligibility requirements for the requested permanent exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Borax to permit the use of natural gas and/or No. 2 fuel oil in a proposed 45 MW cogeneration powerplant to produce electricity and steam at its plant, in Boron, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, D.C. on February 22, 1984.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-5667 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

Doma Corporation and Don Martin; Amended Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of an Amended Proposed Remedial Order (Order) which was issued to DOMA Corporation of Abilene, Texas 79606, and Dan Martin. This Order alleges pricing violations in the amount of $3,466,675.67 plus interest in connection with the resale and certification of crude oil as provided by 10 CFR Part 212, during the time period November 1973 through June 1977.

A copy of the Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird La., Suite 200-E, Dallas, Texas 75247, or by calling (214) 767-7432. [1]Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 7th day of February 1984.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 84-5669 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

International Crude Corporation and Gregg Pritchard; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to International Crude Corporation and Gregg Pritchard at 1500 Industrial Boulevard, Abilene, Texas 79605. This Proposed Remedial Order alleges pricing violations in the amount of $4,718,642.31 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the time period March 1979 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird La., Suite 200-E, Dallas, Texas 75247, or by calling (214) 767-7432. Within Fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 10th day of February 1984.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 84-5668 Filed 3-1-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-234-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

February 24, 1984.

Take notice that on February 9, 1984, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Ave., SE., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia

[1] At ERA's request, and in accordance with 10 CFR 501.3(b)(3) Borax amended its original petition dated May 2, 1983 on July 7 and July 22, 1983, to provide additional information for ERA's use in reaching a decision on the requested exemption.

Gulf), 3805 West Alabama Ave., Houston, Texas 77027, filed in Docket No. CP84–234–000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia Transmission and Columbia Gulf propose to transport natural gas on behalf of W. R. Grace & Co., Davison Chemical Division (W. R. Grace) under their authorizations issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Columbia Transmission and Columbia Gulf propose to transport up to 2 billion Btu equivalent of natural gas per day on behalf of W. R. Grace for a term of one year.

It is stated that the gas to be transported would be purchased from Exxon Corporation by W. R. Grace and would be used for boiler and process fuel at W. R. Grace's Cincinnati, Ohio, plant. It is stated that Columbia Gulf would receive the gas at existing points of receipt in Louisiana and offshore and redeliver to Columbia Transmission which would redeliver to Cincinnati Gas and Electric Company, the distribution company serving W. R. Grace. It is further stated that the gas to be purchased by W. R. Grace involves gas supplies released by Columbia Transmission and that such supplies are subject to the ceiling provisions of sections 102 and 103 of the Natural Gas Policy Act of 1978.

Further, Columbia Transmission states that it would charge its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia Transmission states that it is also collecting the GRI Funding Unit charge which is currently 1.21 cents per dt. Columbia Transmission states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Columbia Gulf states that it would charge either its average system-wide unit onshore or offshore transmission costs, exclusive of company-use and unaccounted-for gas. The onshore transportation charge is currently 26.19 cents per dt and the offshore transportation charge is currently 44.63 cents per dt, it is explained. Columbia Gulf states that it would retain, for company-use and unaccounted-for gas, 2.58 percent of the total quantity of gas delivered onshore and 3.33 percent of the total quantity of gas delivered offshore.

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. 84–5635 Filed 3–1–84; 8:45 am]

BILLING CODE 6717–01–M

[CP84–235–000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

February 27, 1984.

Take notice that on February 9, 1984, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Ave., SE., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Ave., Houston, Taxas 77027, filed in Docket No.CP84–235–000 a request pursuant to § 157.205(b) of the Regulations under the Natural Gas Act (18 CFR 157.205(b)) the Columbia Gas and Columbia Gulf propose to transport natural gas on behalf of Armco, Inc. (Armco), under authorizations issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia Gas and Columbia Gulf propose to transport up to 2,700 dt equivalent of natural gas per day for Armco for a term of one year. It is stated that the gas to be transported would be purchased from Exxon Corporation (Exxon) by Armco and would be used primarily for space heating, reheating steel and boiler fuel in Armco's plant in Baltimore, Maryland.

It is explained that Columbia Gulf would receive the quantities of gas at existing points of delivery in Louisiana and redeliver to Columbia Gas which would redeliver to Baltimore Gas and Electric Company (BG&E) for ultimate delivery to Armco. The gas purchase agreement between Exxon and Armco indicates that Columbia Gas has released certain gas supplies of Exxon's. It is stated that these supplies are subject to the ceiling price provisions of sections 102 and 103 of the Natural Gas Act of 1978.

For this transportation, it is stated that Columbia Gas would charge Armco its average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, currently, 40.11 cents per dth. It is also stated that Columbia Gulf would charge Armco, depending upon whether the receipt point is offshore or onshore, its average system-wide unit onshore or offshore transmission costs, exclusive of company-use and unaccounted-for gas. Columbia Gulf's current charges are 26.19 cents per dt for onshore and 44.63 cents per dt for offshore. In addition, Columbia Gas and Columbia Gulf state that they would retain a percentage of the gas delivered for company-use and unaccounted-for gas. The percentage for Columbia Gas is currently 285 percent while the percentage for Columbia Gulf is 3.33 percent for transportation from offshore and 2.58 percent from onshore.

It is indicated that gas proposed to be transported hereunder has been flowing since December 14, 1983, pursuant to § 157.209 of the Regulations.

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 pursusnt to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5640 Filed 3–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP69-78-004]

Consolidated Gas Supply Corp. and Carnegie Natural Gas Co.; Petition to Amend

February 24, 1984.

Take notice that on January 13, 1984, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301 and Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15234, jointly filed in Docket No. CP69-78-004 a petition to amend further the order issued November 22, 1968,[1] in Docket No. CP69-78 pursuant to section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas at an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued November 22, 1968, Consolidated and Carnegie were authorized to exchange an unspecified amount of natural gas per day, pursuant to a full requirements exchange agreement dated August 16, 1968. The order has since been amended from time to time to authorize additional delivery points.

Consolidated and Carnegie assert that the exchange agreement was further amended on January 6, 1983, so as to provide an additional delivery point from Carnegie to Consolidated on Consolidated's 6-inch pipeline H-290 in Grant District, Wetzel County, West Virginia.

It is submitted that the additional delivery point is proposed in order to attach newly developed local supplies of gas to market without the construction of expensive and duplicative facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before 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 the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5636 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-13-006]

Gas Gathering Corp. Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

February 24, 1984.

Take notice that on February 17, 1984, Gas gathering Corporation (G.G.C.) tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under G.G.C.'s PGA clause. the Proposed changes would increase the rate charged Transco by 80.29242 cents per MMBtu from those rates presently in effect. The proposed changes are proposed to be made effective January 1, 1984. G.G.C. states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost as of December 31, 1983 through a six-month surcharge.

A copy of the filing has been served upon Transco.

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 March 7, 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. 84-5637 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-224-000]

Locust Ridge Gas Co. Application

February 27, 1984.

Take notice that on February 7, 1984, Locust Ridge Gas Company (Locust Ridge), 2002 Gilmore Road, Longview, Texas 75604, filed in Docket No. CP84-224-000 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, the transportation and sale of natural gas and the abandonment of certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 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 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 it 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. 84-5641 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-18-000]

Palo Duro Pipeline Co., Inc.; Motion to Lodge Court Order Referring Issues, Complaint, and Petition for Declaratory Order

Issued: February 27, 1984.

On January 20, 1984, Palo Duro Pipeline Company, Inc., (Palo Duro) filed a Motion to Lodge Court Order Referring Issues, Complaint, and Petition for Declaratory Order under Rules 212, 206, and 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 385.206, 385.207 and 385.212 (1983)). The motion concerns whether pre-connection and/or post-connection take-or-pay payments by Palo Duro to Post Petroleum Company (Post) for gas produced in Hemphill County, Texas constitute additional value in excess of the applicable maximum lawful price in violation of section 504(a)(1) of the Natural Gas Policy Act of 1979 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982).

Palo Duro asserts that Post commenced an action in the United States District Court [1] to recover sums Post claims were due in accordance with take-or-pay provisions of the subject gas purchase contract.[2] Post contended that Palo Duro was obligated either to take a minimum fixed amount of gas or to pay any gas not taken up to that fixed amount. Palo Duro asked the District Court to refer to the Commission, in accordance with the primary jurisdiction doctrine, the issue of whether take-or-pay provisions of the subject contract are unenforceable because such provisions can be regarded as consideration in excess of the applicable maximum lawful price, and thereby a violation of NGPA section 504(a)(1). The District Court agreed to refer the issue. Palo Duro, therefore, requests that the District Court order and the referred issue be "lodged" and considered as "expeditiously as possible" and resolved either "as a matter of law or on the basis of an evidentiary record" by the Commission.

Palo Duro claims that reserves under the contract are inadequate to allow it to recoup payments for gas not taken, and therefore requests that the Commission find that the "receipt or retention" by Post of pre-connection or post-connection take-or-pay payments which cannot be "recouped" violates NGPA section 504(a)(1).

Palo Duro argues that NGPA section 501(a) vests with the Commission exclusive jurisdiction to enforce the NGPA, and that the issue of whether take-or-pay provisions are permissible under the NGPA is "within the primary, if not exclusive, jurisdiction of the Commission." Palo Duro states that the Commission will not impede the resolution of issues which are a proper subject of District Court jurisdiction by considering the matters involved in its petition. Palo Duro requests that the Commission issue a declaratory order stating that Post can collect the maximum lawful price only for gas actually delivered to Palo Duro.

Any person desiring to participate in this proceeding must file a petition to intervene or a protest with the Commission, 825 North Capital Street, NE., Washington, D.C. 20426 under Rules 211 or 214. The petition or protest must be filed within 15 days of publication of this notice in the **Federal Register**. Only a petition to intervene will make a person a party to the proceeding. Copies of the petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5642 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[1] George P. Post d/b/a Post Petroleum Company v. Perry Gas Transmission, Inc., *et al.* Civil Action No. 2-83-158 (D.C. N. D. Tex., December 15, 1983).

[2] On November 30, 1977, Post and Perry Gas Transmission, Inc., entered into a gas purchase contract which provided that Perry would purchase gas produced from wells in Hemphill County, Texas. Palo has succeeded to the rights and duties of Perry under the subject contract.

[Docket No. SA84-01-000]

Phillips Petroleum Co.; Application for Adjustment

February 27, 1984.

On February 10, 1984, Phillips Petroleum Company (Phillips) filed an application for adjustment under the Natural Gas Policy Act of 1978 (NGPA) [1] with the Federal Energy Regulatory Commission (Commission). Phillips seeks a waiver of § 271.402(b)(3) of the Commission's regulations.[2]

Phillips seeks a waiver of § 271.402(b)(3) so that it may collect the NGPA section 106 rollover contract rate even though it has not executed a rollover contract.[3] This relief is sought to prevent the loss of revenue due to the unwillingness on the part of Phillips' purchaser, Southern Natural Gas Company (Southern), to execute a rollover contract under previously agreed terms. Phillips asserts that since Southern's failure to execute a rollover contract is wrongful, strict application of § 271.402(b)(3) would subject Phillips to inequitable loss until a rollover contract is executed. Phillips also requests that upon qualifying for the NGPA section 106(a) rate that such rate be included in its Revised Blanket Affidavit filed on april 30, 1979 under § 154.94(h)(3)(ii).

Phillips provided the following facts in support of its application. Phillips and Southern executed a contract, dated February 26, 1957, for the sale and purchase of gas from the Main Pass and Chandeleur Sound Area of Louisiana. That contract expired by its own terms and was replaced by a contract between Phillips and Southern dated February 1, 1978. Also by letter, dated February 1, 1978, Phillips and Southern agreed, in part, that they would execute a new agreement with substantially similar terms and conditions to those of the February 1, 1978 agreement, with some exceptions detailed in the letter, prior to the termination of the February 1, 1978 agreement. The February 1, 1978 replacement contract expired by its own terms on February 1, 1983. Phillips stated that, as of the date of its application, no rollover contract has been executed. Phillips also stated that Southern has indicated a desire to substantially alter the agreed terms and refuses to enter into a new contract per their agreement.

Subpart K of Part 385 of the Commission's Rules of Practice and Procedure sets out the procedures that apply to this adjustment proceeding. Any person who wishes to participate in this proceeding shall file a petition to intervene in accord with Subpart K. All such petitions must be filed within 15 days after this notice is published in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5645 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 3301-3432 (1982). Section 502(c) of the NPGA provides for adjustment to the Commission's rules or orders.

[2] 18 CFR 271.402(b)(3) (1983).

[3] Section 271.402(b)(3) defines "interstate rollover gas" as that term applies to section 106 of the NGPA. "Interstate rollover gas" is, among other things, gas which is sold under a rollover contract as defined in section 2(12) of the NGPA. The term "rollover contract" means any contract, entered into on or after November 8, 1978, for the first sale of gas previously subject to an existing contract which expired at the end of a fixed term as specified by the existing contract as it was in effect on November 8, 1978.

[Docket No. SA84-11-000]

Phillips Petroleum Co.; Application for Adjustment

February 27, 1984.

On February 14, 1984, Phillips Petroleum Company (Phillips) filed an

application for adjustment under the Natural Gas Policy Act of 1978 (NGPA)[1] with the Federl Energy Regulatory Commission (Commission). Phillips seeks a waiver of § 271.402(b)(3) of the Commission's regulations.[2]

Phillips seeks a waiver of § 271.402(b)(3) so that it may collect the NGPA section 106 rollover contract rate even though it has not executed a rollover contract.[3] This relief is sought to prevent the loss of revenue due to the unwillingness on the part of Phillips' purchaser, Southern Natural Gas Company (Southern), to execute a rollover contract under previously agreed terms. Phillips asserts that since Southern's failure to execute a rollover contract is wrongful, strict application of § 271.402(b)(3) would subject Phillips to inequitable loss until a rollover contract is executed. Phillips also requests that upon qualifying for the NGPA section 106(a) rate that such rate be included in its Revised Blanket Affidavit filed on April 30, 1979 under § 154.94(h)(3)(ii).

Phillips provided the following acts in support of its application. On December 1, 1983, Phillips Petroleum Company assigned to Phillips Oil Company its interest in the 5750' and 6450' sands found in Well Nos. 4, 5, 9, and 10 on State Lease 2221 and Well No. 5 on State Lease 2220, located in St. Bernard Parish, Louisiana, along with all rights under any contract or agreement covering those leases. The gas produced from those leases was sold to Southern.[4] The assignment included a replacement contract between Phillips Petroleum Company and Southern and a letter agreement; both are dated February 1, 1978. In the letter agreement Phillips Petroleum Company and Southern agreed, in part, that they would execute a new agreement with substantially similar terms and conditions to those of the February 1, 1978 agreement, with some exceptions detailed in the letter, to the termination of the February 1, 1978 agreement. The February 1, 1978 replacement contract expired by its own terms on February 1, 1983. Phillips stated that, as of the date of its application, no rollover contract has been executed. Phillips also stated that Southern has indicated a desire to substantially alter the agreed terms and refuses to enter into a new contract per their agreement.

Subpart K of Part 385 of the Commission's Rules of Practice and Procedure sets out the procedures that apply to this adjustment proceeding. Any person who wishes to participate in this proceeding shall file a petition to intervene in accorda with Subpart K. All such petitions must be filed within 15 days after this notice is published in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5646 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-229-000]

Tennessee Gas Pipeline Co. a Division of Tenneco Inc.; Application

February 27, 1984.

Take notice that on February 8, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-229-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to receive, transport and deliver up to 4,500 Mcf of natural gas per day on a best-efforts basis for Columbia Gas from a point of receipt at the terminus of the East Cameron Block 42C line on the existing East Cameron Block 33A platform, offshore Louisiana. Tennessee would deliver such gas at existing points of interconnection between Columbia Gulf Transmission Company (Columbia Gulf) and Tennessee located at Egan and/or Centerville, Louisiana, and the Continental Grand Chenier Plant, Cameron Parish, Louisiana. Tennessee states that it is presently transporting such natural gas for Columbia Gas pursuant to the provisions of § 284.221 of the Commission's Regulations and Tennessee's blanket Order No. 60 certificate issued February 21, 1980, in Docket No. CP80-132.

It is stated that Columbia gas would pay to Tennessee for this transportation:

(1) For deliveries at Centerville or Egan, Louisiana, a volume charge equal to the product of 8.96 cents multilied by the total volume in Mcf of gas received by Tennessee from Columbia Gas during the month less volumes retained by Tennessee equaling 1.2 percent of the volume for fuel and use requirements and less volumes delivered at Grand Chenier.

(2) For deliveries at Grand Chenier a volume charge equal to the product of 6.28 cents multiplied by the total volume in Mcf of gas received by Tennessee from Columbia Gas during the month less volumes retained by Tennessee equaling 1.2 percent of the volume for fuel and use requirements and less volumes delivered at Egan and/or Centerville.

(3) A minimum monthly bill consisting of the volume charge of 8.96 cents multiplied by the number of days in said month, multiplied by 66⅔ percent of 4,500 Mcf, with such 4,500 Mcf per day to be reduced by the volume if any, tendered by Columbia Gas and not taken by Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 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

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[1] 15 U.S.C. 3301-3432 (1982). Section 502(c) of the NGPA provides for adjustment to the Commission's rules or orders.

[2] 18 CFR 271.402(b)(3) (1983).

[3] Section 271.402(b)(3) defines "interstate rollover gas as that term applies to section 106 of the NGPA. "Interstate rollover gas" is, among other things, gas which is sold under a rollover contract as defined in section 2(12) of the NGPA. The term "rollover contract" means any contract, entered into on or after November 8, 1978, for the first sale of gas previously subject to an existing contract which expired at the end of a fixed term as specified by the existing contract as it was in effect on November 8, 1978.

[4] This sale of gas was orginally included in Phillips Petroleum Company's FERC Gas Rate Schedule No. 300. On February 6, 1984, Phillips Oil Company applied for a certificate of public convenience as a successor in interest to that gas rate schedule. Phillips Oil Company tentatively sold the gas to Southern under its designated FERC Gas Rate Schedule No. 74.

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 Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5643 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-239-000]

Texas Gas Transmission Corp.; Request Under Blanket Authorization

February 27, 1984.

Take notice that on February 10, 1984, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP84-239-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Texas Gas proposes to transport natural gas on behalf of Middletown Paperboard Co., a Division of Newark Boxboard Co. (Middletown) under the authorization issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on fule with the Commission and open to public inspection.

Texas Gas proposes to receive from Middletown up to 1,300 Mcf of gas per day on an interruptible basis at Slaughters, Kentucky, and to redeliver equivalent volumes to The Cincinnati Gas and Electric Company (Cincinnati Gas) for the account of and for further delivery to Middletown at an existing point of interconnection of the Texas Gas and Cincinnati Gas facilities in Butler County, Ohio. The proposed annual maximum quantities is 474,500 Mcf. The proposed service would be for a period of one year from the date of authorization.

Texas Gas proposes to charge for its services the rate provided in its Rate Schedule T-3/Z-4 on file with the Commission. In addition to that rate, Middletown would pay Texas Gas an additional incentive charge of five cents per Mcf as provided in Texas Gas' AIC Rate Schedule, it is explained. Texas Gas states that it would also retain 1.28 percent of the volumes received as reinbursement for fuel gas.

Texas Gas states that the proposed transportation would be rendered through the use of its existing facilities and that the proposed service would not require the construction of any new facilities.

Texas Gas also states that the gas would be used at Middletown's plant in Middletown, Ohio, for the generation of steam heat for use in paper drying operations and that a small amount of gas would be used to generate electricity for use in the plant. Texas Gas also states that Middletown has purchased its gas supplies from ANR Production Company (ANR) and that no intermediary participates in the transaction between Middletown and ANR.

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. 84-5644 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-223-000]

Transcontinental Gas Pipe Line Corp.; Application

February 24, 1984.

Take notice that on February 3, 1984 Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-223-000 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 pipeline loops on its Leidy Line and market area facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Application states that the purpose of the proposed project is to expand the capacity of Applicant's Leidy Line and market area facilities, located in Pennsylvania and New Jersey, by November 1, 1984, in order (1) to effect delivery to Applicant's customers of up to 145,455 dt equivalent of natural gas per day to be stored in underground storage facilities owned by others and which has been offered to Applicant's customers as a new storage service, and (2) to render firm transportation service of up to 25,000 dt equivalent and 5,000 dt equivalent of gas per day on behalf of Elizabethtown Gas Company and Delmarva Power and Light Company, respectively. It is asserted that the proposed looping facilities would increase the deliverability of the Leidy Line by 175,455 dt per day from the current level of 970,269 Mcf per day, thus providing the increased capacity required to implement the proposed new storage and transportation services.

Applicant states that it seeks authorization to construct and operate the following pipeline loop on its Leidy Line and market area facilities in Pennsylvania and New Jersey:

1. 12.39 miles of 30-inch diameter pipeline loop from Leidy milepost 185.53 to Leidy milepost 173.14;
2. 29.55 miles of 36-inch diameter pipeline loop from Leidy milepost 124.56 to Leidy milepost 95.01;
3. 12.37 miles of 36-inch diameter pipeline loop from station 505 to Leidy milepost 12.51;
4. 4.79 miles of 24-inch diameter pipeline loop from Applicant's Main-Line to milepost 4.79 on the Trenton-Woodbury Lateral; and
5. 4.17 miles of 36-inch diameter pipeline look from valve 505B40 to the Roseland metering and regulator station on the Caldwell loop.

Applicant states that the estimated cost of the proposed facilities is $71,587,000 which would be financed initially through short-term loans and funds on hand, with permanent financing to be arranged as part of Applicant's overall long-term financing program at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 19, 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 necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5638 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-220-000]

Transcontinental Gas Pipe Line Corp.; Application

February 27, 1984.

Take notice that on January 31, 1984, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-220-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct, operate and acquire certain pipeline and compression facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that by gas purchase contract dated May 10, 1983 (Contract), it has obtained from Shell Offshore Inc. (Shell) the right to purchase certain gas to be produced from a lease covering Blocks 229, 300 and 301, South Timbalier Area South Addition, Offshore Louisiana (ST299, 300 and 301, sometimes referred to as ST300 Field). It is stated that, in order to attach this new source of gas supply, Applicant would install approximately 26.97 miles of 24-inch pipeline which would connect Shell's production platforms in the ST300 Field to Applicant's Ship Shoal Area Block 214 central platform, offshore Louisiana. The estimated cost of the 26.97 miles of 24-inch pipeline is $32.8 million.

Applicant additionally requests authorization to acquire from Shell 3.26 miles of 8-inch pipeline located between Shell's ST301 B platform and Shell's ST300 A platform. It is stated that this line was installed by Shell in 1982 and is to be placed in service by Shell in 1984. Under the terms of the contract, it is stated, Applicant undertook the obligation to construct a gas line between ST300 A platform and ST301 B platform and that Shell built the subject 8-inch line for short-term use as an oil line. Applicant seeks authorization to acquire the line to fulfill its contractural obligation at such time as Shell ceases use of the line as an oil line in mid-1985. The estimated cost of acquiring the 3.26 miles of 8-inch line is $1,268,200.

Applicant further states that, under the terms of the contract it has agreed to provide compression for casinghead and gas well gas above 600 psig. Shell would install one 3,200 horsepower three-stage compressor and one 2,280 horsepower three-stage compressor at the ST300 A and ST 301 B platforms, respectively. Applicant states that it would be joint owner of such compression facilities inasmuch as the third state of compression would satisfy Applicant's contractual commitment to provide compression above 600 psia. Total cost of the ST300 A platform compressor is estimated at $5.4 million; total cost of the ST301 B platform compressor is estimated at $4.5 million. Applicant submits that it would have a 28 percent ownership in facilities located at the ST300 A platform and a 35 percent ownership interest in facilities located at the ST301 B platform while Shell would have the remaining ownership interest in each of the compressor units. The estimated total cost of Applicant's portion of the compression facilities at both of the above referenced blocks, including additional costs associated with rental of deck space, is $3,349,000.

Any person desiring to be heard or to make any protest with reference to said application should be on or before March 21, 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 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. 84-5648 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-75-006]

Transcontinental Gas Pipe Line Corp. and Northern Natural Gas Co., Division of InterNorth; Inc.; Petition to Amend

February 27, 1984.

Take notice that on January 26, 1984, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Northern Natural Gas Company, Division of InterNorth, 77251, and Norther Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-75-006 a petition to amend the order issued September 30, 1981, in Docket No. CP81-75-000 as amended by order dated August 16, 1983, in Docket No., CP81-75-004, pursuant to section 7(c) of the Natural Gas Act so as to authorize a change in receipt points for the exchange of gas between Petitioners, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners indicate that while they were authorized in Docket No. CP81-75-004 to substitute certain receipt points such certificate amendment conditioned the receipt of gas at the proposed interconnection of Transco's Central Texas Gathering System (CTGS) and Transco's main line in Wharton County, Texas, upon further expansion of the

CTGS Loop proposed in Docket No. CP82–158–000.

Petitioners state that such condition is unnecessary inasmuch as the gas to be exchanged at such point of receipt is within Northern's existing capacity entitlement in a partial expansion of the CTGS already authorized in Docket No. CP82–158–001.

Petitioners further state that by amendatory agreement dated June 30, 1983, they have reaffirmed their intent that delivery of gas is to be made at the interconnection of Transco's main line and the CTGS without further expansion of CTGS. It is therefore proposed by Petitioners that the interconnection between Transco's main line and the CTGS be authorized as a receipt point of gas by Transco from Northern without conditions regarding further expansion of the CTGS inasmuch as gas delivered to such receipt point by Northern would be done within Northern's existing capacity in the CTGS as authorized in Docket No. CP82–158–001 on July 15, 1982.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 21, 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 117.10). 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. 84–5647 Filed 3–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–240–000]

Trunkline Gas Co., and Panhandle Eastern Pipe Line Co.; Application

February 27, 1984.

Take notice that on February 13 1984, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Panhandle Eastern Pipe Line Company (Panhandle), P. O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84–240–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated September 15, 1983, Applicants propose to transport up to 15,000 Mcf of natural gas per day on an interruptible basis which Mid Louisiana is purchasing from Oklahoma Natural Gas Company (Oklahoma Natural). It is stated that Panhandle would receive the subject gas from Oklahoma Natural at an existing point of interconnection between Oklahoma Natural and Panhandle in Dewey County, Oklahoma. Trunkline, it is asserted, would redeliver the gas to Mid Louisiana at an existing point of interconnection in Richland Parish, Louisiana.

It is stated that Mid Louisiana would pay Applicants a unit transportation charge of 27.85 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5649 Filed 3–1–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP76–502–007]

United Gas Pipe Line Co. and Chandeleur Pipe Line Co.; Petition to Amend

February 27, 1984.

Take notice that on February 7, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Chandeleur Pipe Line Company (Chandeleur), P.O. Box 7141, San Francisco, California 94120–7141 (Petitioners), filed in Docket No. CP76–502–007 a joint petition to amend the order issued March 25, 1977,[1] as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension of the gas exchange period under the gas exchange letter amendment between Petitioners dated November 2, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued March 25, 1977, as amended, they were authorized to exchange up to 5,000 Mcf of natural gas per day in the Bayou Cassotte area near Pascagoula, Jackson County, Mississippi. Petitioners state that they were authorized by an order issued February 24, 1982, in Docket No. CP76–502–005 to exchange natural gas for an additional two-year period (effective November 1, 1982, through April 1, 1984) so as to meet the increase in demands on United's system during the winter heating season.

It is stated that Petitioners request authorizations to continue this exchange of gas for an additional two-year period as shown below:

April 1, 1984, through December 1, 1984;

April 1, 1985, through December 1, 1985;

November 1, 1984, through April 1, 1985; and

November 1, 1985, through April 1, 1986;

Petitioners indicate that this proposed amendment would not increase the previously certificated exchange volume. It is further stated that the

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

proposed exchange service would be rendered only if there is available capacity on each of Petitioners' systems and without causing detriment to their existing customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 21, 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. 84-5650 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-214-000]

Yegua-Stillwell Gas Corp.; Application for Abandonment Authorization

February 24, 1984.

Take notice that on February 16, 1984, Yegua-Stillwell Gas Corporation (Yegua-Stillwell) of P.O. Box 145, Alice, Texas 78332, filed an application pursuant to section 7(b) of the Natural Gas Act, 15 U.S.C. 717f(b), and § 157.30 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, 18 CFR 157.30 (1983), requesting permission and approval to abandon its sale to Altex Corporation (Altex) of production from the Buegeler and Mandel leases, Jim Wells County, Texas. Altex gathered the gas and resold it to Tennessee Gas Pipeline Company (Tennessee). This application is being filed pursuant to the "Stipulation and Consent Agreement" (Agreement) which has been entered into by Yegua-Stillwell and the Enforcement Staff in *Atlantic Richfield Company, et al.*, Docket No. CI75-201, *et al.*

Yegua-Stillwell states that it is uneconomical to hook up to its wells to Tennessee since Altex has removed its gathering system and the only buyer to which Yegua-Stillwell can economically sell gas from these leases is Valero Transmission Company (Valero), which has a line already in place. The sale to Valero would be in intrastate commerce.

Yegua-Stillwell submits that the public convenience and necessity permits the requested abandonment under the requirements of section 7(b) because the reserves underlying the leases are substantially depleted and revenues from the sale of gas to Valero will be used to compensate Tennessee's customers under the settlement reached between the Enforcement Staff and Yegua-Stillwell.

Any person desiring to be heard or to make protest with reference to said application should on or before March 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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. 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.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-5639 Filed 3-1-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders, Week of January 16 Through January 20, 1984

During the week of January 16 through January 20, 1984, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Kramer Associates, Inc., 1/20/84, *HFA-0201*

Kramer Associates filed an Appeal from a partial denial by the Office of the Inspector General (OIG) of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that certain intra-agency documents were predecisional, deliberative documents which are properly withheld under Exemption 5. It was also found that withholding of certain other documents which contain evidence compiled in a law enforcement proceeding, including the names of witnesses, was proper under Exemption 7(A) because their release would interfere with an ongoing enforcement proceeding. In addition, the DOE found that the release of certain documents would either amount to an invasion of personal privacy or would reveal a confidential source, and thus were properly withheld under Exemptions 7(C) and 7(D), respectively. The DOE determined that portions of two documents initially withheld under Exemptions 7(A) and 7(D) of the FOIA should be released to the public because they were not compiled for law enforcement purposes and hence did not properly fall within the scope of Exemption 7. The DOE also found that the OIG had not made an adequate determination with respect to two other documents. As a result, the DOE was unable to determine if the material was properly withheld, and therefore remanded the document to the OIG for a new determination. Accordingly, the Appeal was granted in part.

Remedial Order

Brownlie, Wallace, Armstrong & Bander, Inc., 1/17/84 *HRO-0112*

Brownlie, Wallace, Armstrong & Bander, Inc. (BWAB) objected to a Proposed Remedial Order (PRO) which the Dallas Field Office of the Economic Regulatory Administration (ERA) issued to the firm on December 22, 1982. In the PRO, the ERA alleged that the firm incorrectly certified crude oil produced from one of BWAB's properties as "newly discovered crude oil." The ERA relied on Ruling 1980-3, which prohibited certification of oil as "newly discovered" if a property produced oil in "measurable amounts" during 1978. BWAB argued that because the property did not produce oil in "commercial quantities" during 1978, its certification was correct. BWAB challenged the validity of Ruling 1980-3, arguing that Ruling 1980-3 was not entitled to deference because it was inconsistent with the underlying regulations set forth at 10 CFR 212.979(b). BWAB claimed that the regulation allowed for new oil certification so long as any 1978 production was not in "commercial quantities." The DOE rejected BWAB's challenge to Ruling 1980-3, relying on the recent decision of *Seneca Oil Co.* v. *DOE* 712 F.2d 1384 (Temp. Emer. Ct. App. 1983). In *Seneca*, the court rejected similar arguments that a "commercial quantities" criterion was incorporated into the underlying regulation. The court held that Ruling 1980-3 was consistent with the regulation, entitled to deference, and hence valid. In light of this decision, BWAB's arguments were rejected and the PRO was issued as a final Remedial Order.

Request for Modification and/or Rescission

Emond Oil Company, 1/17/84, HRR-0061

The Emond Oil Company filed a submission entitled "Request for Dissolution of an Escrow Account." The escrow account at issue was established to secure payment of refunds ordered by a Remedial Order which

was issued to the firm on September 27, 1976. *See Emond Oil Co.*, 4 FEA ¶85,034 (1976). On December 30, 1983, the Economic Regulatory Administration informed the Office of Hearings and Appeals that it would no longer pursue the enforcement proceeding involving Emond and that it therefore supported the firm's request for dissolution of the escrow account. Consequently, the OHA determined that the funds in the escrow account established under the 1976 Decision and Order should be released promptly to Emond.

Interlocutory Order

State of Texas; States of Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island, and West Virginia; State of California, 1/18/84, HRZ-0185

The States of California, Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island, and West Virginia filed Requests to Participate, and the State of Texas filed a Notice of Objection and Statement of Objections, in an enforcement proceeding involving a Proposed Remedial Order issued to Southwestern Gulf Petroleum Company, No. HRO-0194. The Office of Hearings and Appeals accepted the States' submissions and held that the States are entitled to participate in the enforcement proceeding with respect to the determination of the appropriate remedy.

Refund Applications

Standard Oil Company (Indiana)/General Motors Corporation, 1/19/84, RF21-8105, RF21-8106

The DOE issued a Decision and Order concerning an Application for Refund filed by General Motors Corporation (GM) as a consumer of Amoco refined petroleum products. GM elected to apply for a refund based upon the presumptions of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982) (*Amoco*). The bulk of GM's purchase volumes from Amoco, which was estimated on the basis of GM's total expenditures for Amoco refined products during the consent order period, consisted of motor gasoline and middle distillates. In considering GM's application, the DOE determined that the methodology and price data used by GM in computing its purchase volumes were accurate with respect to motor gasoline and other refined products except middle distillates. Accordingly, the DOE concluded that GM should receive a refund based upon the total eligible volume of such purchases (Case No. RF21-8106). With respect to middle distillates, however, the DOE dismissed GM's application because records supplied to the DOE by Amoco indicated that GM already had received a refund for middle distillate purchases (Case No. RF21-8105). The refunds granted in this proceeding total $184,475.

Standard Oil Company (Indiana) 10 Mile & Hoover et al., 1/18/84, RF21-2149 ET AL.

The DOE issued a Decision and Order concerning 35 Applications for Refund by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the fomulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 35 applications should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $33,269.

Vickers Energy Corporation, Inc.,/ Highland Petroleum, Inc. 1/17/84, RR1-3

Higland Petroleum, Inc., a motor gasoline retailer, filed a request for modification of a Decision and Order that granted the firm a refund based on its purchases of Vickers motor gasoline during the period 1973 through 1979. *Vickers Energy Corporation/Highland Petroleum, Inc.*, 11 DOE ¶85,218 (1984). In its submission, Highland contended that banking of unrecouped increased product costs was not permitted during the early months of the consent order period and, therefore, that evidence of such banks should not be required as a condition of refund eligibility. After considering the firm's position, Highland was granted an additional refund for Vickers gasoline purchased in August and September 1973.

Dismissals

The following submissions were dismissed:

Company name and Case No.
Highstreet petroleum, RF21-12195
Sandblom Oil Company, RF21-7759

Copies of the full text of these decisions and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

February 23, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-5765 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decision and Orders, Week of January 9 Through January 13, 1984

During the week of January 9 through January 13, 1984, the decisions and orders summarized below were issued with respect to application for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

Northeast Louisiana Wholesale Oil and Gas Company, Inc., 1/11/84, HEE-0061

Northeast Louisiana Wholesale Oil and Gas Co., Inc., filed an Application for Exception in which the firm sought to be relieved of its obligation to complete and submit From EIA-782B. In considering the request, the DOE found that the firm was not significantly more burdened by the reporting requirement than were similarly situated firms. Accordingly, exception relief was denied.

Supplemental Order

Marathon Petroleum Company; Marathon Oil Company, 1/13/84, HRX-0098

In *Economic Regulatory Administration*, 11 DOE ¶84,035 (1983), the OHA determined that the description of a document withheld from ERA by Marathon Petroleum Company and Marathon Oil Company (collectively "Marathon") was not sufficient to enable the OHA to sustain Marathon's work-product doctrine claim. Instead of ordering the document released immediately, however, the OHA afforded Marathon an additional opportunity to demonstrate that the document in question was in fact privileged. On December 1, 1983, Marathon provided a supplemental description of the withheld document. After reviewing the supplemental description, the OHA concluded that it did not demonstrate that the document had been prepared with "an eye toward litigation." Consequently, Marathon's work-product doctrine claim was rejected. In addition, the OHA concluded that the document was not protected from disclosure by the attorney-client privilege. Accordingly, the OHA ordered Marathon to release the withheld document to ERA.

Finally, the OHA considered and denied a request from ERA that Marathon be directed to produce the deleted portions of certain other documents produced to ERA. The OHA, after reviewing descriptions of the deleted matter, agreed with Marathon that the withheld portions were irrelevant and therefore need not be produced.

Refund Applications

Palo Pinto Oil and Gas/States of Michigan, New York and Missouri, 1/10/84, RQ5-29, RQ5-30, RQ5-42

The Office of Hearings and Appeals approved proposals submitted by the States of Michigan, New York, and Missouri in connection with the Palo Pinto consent order funds. Michigan plans to use its share of the refund moneys to publicize its motor oil recycling program, and to create new recycling centers. New York proposes to promote its ridesharing services and increase participation in that program, and Missouri plans to computerize ridesharing applications and thus match potential participants more efficiently. Each of the states was required to file within two years a report detailing the manner in whch the refunds were used, as well as certifying that all funds were spent in accordance with the approved plans.

Standard Oil Company (Indiana) Riley's Standard Service, 1/11/84, RR21-00002

Riley's Standard Service (Riley's) filed a Motion for Modification requesting the DOE to reconsider its Decision in *Standard Oil Co. (Indiana)/Riley's Standard Service*, 11 DOE ¶85,148 (1983). That decision denied Riley's

Application for Refund on the basis that Riley's had failed to provide adequate documentation of its claimed gasoline purchase volumes. In considering the Motion, the DOE found that Riley's did not meet the requirements for a Motion for Modification. However, the DOE also found that Riley's Motion should nevertheless be granted because of the equitable nature of the refund process and the accurate purchase documentation subsequently submitted by Riley's. Riley's Motion for Modification was therefore granted.

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Lawrence W. Buckman, RF21-12262
Decision Planning Corporation, HES-0032
William H. Matschke, RF21-12257
Texas, RQ5-22

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

February 23, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-5766 Filed 3-1-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENAL PROTECTION AGENCY

[ER-FRL-2534-4]

Availability of Environmental Impact Statements Filed February 20 Through February 24, 1984 Prusuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 84067, Draft, BLM, OR ID NV, Owyhee Canyonlands Wilderness Study Areas, Designation, Due: May 31, 1984.

EIS No. 840075, Final, COE, WA, Centralia-Chehalis Flood Damage Reduction Plan, Skookumchuck Dam Modification, Chehalis/Skookumchuck/Newaukum Rivers, Thurston County, Due: Apr. 2, 1984.

EIS No. 840076, DSuppl, FHWA, US 2 Widening, Granville to Souris River, McHenery Co., Due: Apr. 16, 1984.

EIS No. 840077, Draft, SCS, KS, South Fork Watershed Plan, Butler, Chase and Greenwood Cos., Due: Apr. 16, 1984.

EIS No. 840078, Draft, COE, TX, Guadalupe River Navigation Improvement, Channel to Victoria, Port of Victoria, Calhoun and Victoria Counties, Due: Apr. 16, 1984.

EIS No. 840079, Final FHW, TN, TN-1 Construction, TN-1/Murfreesboro to TN-145/Woodbury, Rutherford and Cannon Cos., Due: Apr. 2, 1984.

EIS No. 840080, Final, AFS, ID UT NV WY CA CO, Intermountain Region Plan, Standards and Guidelines, Due: Apr. 2, 1984.

EIS No. 840081, Draft, BLM, MT, Powder River Area Resource Management Plan, Custer, Carter, Rosebud, Big Horn, Powder River and Treasure Countirs, Due: June 7, 1984.

EIS No. 840082, Draft, DOE, AZ NV, Mead-Phoenix kV DC Transmission Line Project, C/O/M, Due: Apr. 16, 1984.

EIS No. 840083, Draft, DOE, MT, Great Falls-Conrad Transmission Line Project, C/O/M, Cascade, Teton and Pondera Cos., Due: Apr. 16, 1984.

EIS No. 840084, Final, HUD, REG, HUD Assisted Projects near Hazardous Operations, Factors of Consideration, Due: Apr. 2, 1984.

Dated: February 28, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84-5767 Filed 3-1-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Meetings of the FCC Industry Advisory Committee on Technical Standards for Direct Broadcasting Satellite (DBS) Service

February 24, 1984.

There will be a series of Working Group and Sub-Committee meetings of the FCC Industry Advisory Committee on Technical Standards for DBS Service. These meetings will be held in Washington, D.C.

- W.G. on Interface
  March 6, 1984; at 9:30 AM, FCC/OST Conference Room 7317, 2025 M Street NW
- W.G. RCVR Compatibility/Encryption Interface
  March 6, 1984; at 1:00 PM (Begin with working lunch.) FCC/OST Conference Room 7317, 2025 M Street
- S.C. on Receiver Standards
  March 7, 1984; at 9:30 AM, 1200 19th Street; Conf Rm No. 330
- S.C. on Transmission Standards
  March 13, 1984; at 9:30 AM, CBS, 1800 M Street (at 18th), 3rd flr
- W.G. RCVR Compatibility/Encryption Interface
  March 13, 1984; 2:00 PM, CBS, 1800 M Street, 3rd flr
- W.G. on Interface (possible)
  March 14, 1984; at 2:00 PM, FCC/OST Conference Room No. 7317, 2025 M Street
- W.G. on Interface
  March 28, 1984; at 2:00 PM, 1200 19th Street; Conf Rm No. 330
- S.C. on Receiver Standards
  March 29, 1984; at 9:30 AM, 1200 19th Street; Conf Rm No. 330
- S.C. on Encryption Standards
  March 29, 1984; at 2:00 PM, 1200 19th Street; Conf Rm No. 330

Those seeking additional details may contact B Pattan FCC/OST at (202) 653-9098, or chairmen of the above cited groups.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-5742 Filed 3-1-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement Regarding Eligibility To Make Application To Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act (as Amended February 27, 1984)

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Statement of Policy.

SUMMARY: This statement of policy explains the standards that banking and nonbanking financial institutions—and in particular industrial banking companies and similar financial institutions—must meet in order to be eligible for deposit insurance offered by the Federal Deposit Insurance Corporation ("Corporation"). This statement replaces the statement of policy issued November 17, 1980 (see 45 FR 77517).

EFFECTIVE DATE: March 2, 1984.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, 550—17th Street NW., Washington, D.C. 20429, 202/389-4171.

SUPPLEMENTARY INFORMATION: Section 5(a) of the Federal Deposit Insurance Act ("FDI Act") declares:

> [A]ny State nonmember bank, upon application to and examination by the Federal Deposit Insurance Corporation and approval by the Board of Directors, may become an insured bank.
>
> (12 U.S.C. 1815(a))

Section 3(a) of the FDI Act defines the term "State bank" as:

> [A]ny bank, banking association, trust company, savings bank, industrial bank or similar financial institution which the [Corporation] finds to be operating substantially in the same manner as an industrial bank, or other banking institution which is engaged in the business of receiving deposits, other than trust funds as herein defined, and which is incorporated under the laws of any State * * *
>
> (96 Stat. 1538, 12 U.S.C. 1813(a))

This statement of policy sets forth some general principles for determining the eligibility of various kinds of banking and nonbanking applicants for Federal deposit insurance.

A. Banks and Trust Companies Generally

Prior to the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"), Pub. L. 97–320, section 3(a) of the FDI Act defined "State bank" as follows:

> [A]ny bank, banking association, trust company, savings bank, or other banking institution which is engaged in the business of receiving deposits, other than trust funds as herein defined, and which is incorporated under the laws of any State * * *
>
> (Pub. L. No. 797, 64 Stat. 873)

The Corporation declared that, in order to be eligible for Federal deposit insurance, a company must (1) be chartered and regulated by its State of incorporation as a bank or as a trust company, and (2) have the power under State law to accept "deposits other than trust funds" (as the term "trust funds" is defined in section 3(p) of the FDI Act). See 45 FR 77517.

The Corporation also declared that the power to take deposits cannot be implied, but must be granted explicitly by State law. The Corporation recognized that the term "deposit" was (and is) defined by the FDI Act, not by State law. See 12 U.S.C. 1813(*l*). Before the Garn-St Germain Act, however, the FDI Act was only concerned with obligations of companies that had the status of "banks" and "trust companies" under State law. Accordingly the Corporation interpreted the FDI Act's definition in light of the powers (and in particular the deposit-taking powers) that States explicitly conferred on companies holding charters of that kind. The Corporation considered that a nonbanking organization received "deposits" only when its authority to receive funds as deposits derived explicitly from a statute.

The Garn-St Germain Act amended the FDI Act to broaden the scope of Federal deposit insurance in two ways. The new law enabled the Corporation to insure industrial banks and "similar" institutions. 12 U.S.C. 1813(a). It also expanded the definition of "deposit" to embrace "thrift certificates," "investment certificates," "certificates of indebtedness," and similarly-named instruments. 12 U.S.C. 1813(*l*). On the one hand, the Garn-St Germain Act established certain procedural requirements that the Corporation must fulfill before insuring industrial banks (at least those lacking charters as "banks"). See 12 U.S.C. 1815(a).

In the Corporation's view, the Garn-St Germain Act amendments to the FDI Act were meant to extend Federal deposit insurance to a wider field of financial institutions, not to impose new constraints on companies that have been eligible for insurance under prior law. If an applicant satisfies the chartering and deposit-taking criteria that the Corporation has established under prior law, the Corporation considers that the applicant is eligible for insurance on the same basis as before. The special procedural requirements established by the Garn-St Germain Act do not come into play.

The expansion of the FDI Act's definition of "deposit" also means that a new group of companies is eligible for Federal deposit insurance. Some companies are chartered as "banks" or as "trust companies," but may only issue "thrift certificates," "investment certificates," "certificates of indebtedness," and the like, which are not regarded as "deposits" under State law. Instruments of this kind do qualify as "deposits" under the FDI Act, however. Accordingly, these companies are now eligible for Federal deposit insurance.[1]

B. "Industrial Banks" and Similar Companies

If an industrial loan company does not hold a charter as a "bank" under State law, and/or does not have explicit (*i.e.*, statutory) authority to take "deposits" as defined by State law, it may still be eligible for insurance, but on a different basis. In that event, its eligibility derives from the amendments to the FDI Act effected by section 703 of the Garn-St Germain Act.

The Senate Banking Committee describes the purpose of section 703 of the Garn-St Germain Act as follows:

> The bill also contains an amendment making industrial banks and like type institutions eligible for Federal Deposit Insurance. Industrial banks, industrial loan companies, industrial loan and thrift companies, loan and investment companies are all names for state financial institutions which extend installment credit to consumers and accept some form of savings deposit from their customers. These institutions are chartered and supervised under state industrial banking or industrial loan laws. The purpose of these amendments is to permit this type of financial institution to be eligible for membership in the FDIC on the same basis as other state financial institutions which offer the same or similar services to the public.
>
> (S. Rep. No. 97–536, 97th Cong., 2nd Sess. (1982))

This passage suggests that Congress meant to extend Federal deposit insurance to any company that provides the services described in this passage—that is, making installment loans to consumers, and holding funds for consumers in instruments that are suitable as vehicles for savings—without regard for whether the company's home State designates it as an "industrial bank" or by a similar name that omits the word "bank." Accordingly all companies of this kind (hereinafter called "industrial banking companies," or IBCs") stand on the same footing when applying for insurance.

The Garn-St Germain Act amended section 5 of the FDI Act to prescribe a special set of procedures for the Corporation to follow when an IBC applies for Federal deposit insurance:

> Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State.
>
> (12 U.S.C. 1815(a))

The Corporation has developed guidelines for making this determination. The guidelines express mixed questions of law and fact. That is to say, the language of a State's law will not, by itself, suffice to settle the questions posed here. The Corporation must take into account the practical aspects of State supervisory activities.

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[1] The Corporation will not infer the authority to receive "deposits" from a company's general power to borrow money. The Corporation considers that the power must be expressly conferred upon the company by the State.

The Corporation no longer maintains, however, that the power must be explicitly conferred by statute in all cases. Under the Garn-St Germain Act, deposit-taking is not confined to companies chartered as "banks" and "trust companies" whose powers are clearly defined by State law. Nonbanking companies' powers are not always defined with equivalent precision.

Accordingly, the Corporation now considers that a company may have the power to receive "thrift certificates, investment certificates, certificates of indebtedness, or other similar name" if the State regulatory authority that supervises the company recognizes that the company has that power.

The guidelines [2] are as follows:

(1) Whether the State has established a special set of rules for chartering, licensing, and supervising IBCs.

The legislative history of the Garn-St Germain Act suggests that Congress meant to insure IBCs only when they have a special status under State law. See S. Rep. No. 97–536, *supra*. The Corporation therefore regards State law as the primary touchstone for determining whether a company is an IBC.

If a State has established a program for chartering and regulating IBCs, and if the State considers that a particular company is subject to the program, the Corporation will generally regard the company as an IBC for insurance purposes. On the other hand, if a State has established a program of this kind, but does not consider that the program applies to the company, the Corporation will not generally regard the company as an IBC for insurance purposes.

Furthermore, the Corporation considers that an IBC must either hold a special sort of charter—one issued pursuant to the State's IBC statute—or that an IBC must be limited in the activities it may undertake. It is not enough, in the Corporation's view, for a general-purpose company to obtain a license to provide industrial-banking services. Congress did not mean the Corporation to accept the risk of insuring—and the burden of policing—companies of this kind. But the Corporation might insure a company licensed as an IBC if the company agreed to limit its activities in ways acceptable to the Corporation.

(2) Whether the State law imposes safeguards to protect IBCs against undue risk (e.g., restrictions on non-financial activities; limitations on capital and reserve requirements; limits on insider loans).

The safeguards need not be as detailed as those that apply to banks. But some safeguards are needed to help prevent failure, and to protect depositors and the Corporation should failure occur.

(3) Whether the State has adopted sound mechanisms for examining IBCs (e.g., frequent and regular visitations by State authorities; extensive reporting requirements and/or mandatory outside audits; review of quality of loan and/or securities portfolios; evaluation of adequacy of capital, earnings, and liquidity; inquiry into management strength).

In this connection, the Corporation believes that it is not necessary for State law to set a minimum cycle for examining IBCs. The Board can find that a State's examination of IBCs is "comparable" to that of banks if, as a practical matter, the State supervisor examines IBCs on an appropriate cycle.

(4) Whether the State supervisor has adequate enforcement authority to police the behavior of IBCs (e.g., cease-and-desist powers over IBCs; authority to impose fines on IBCs and/or over their directors, officers, or employees; power to remove insurance and/or to close IBCs).

The enforcement powers available to the State supervisor for IBCs need not be the same as those available to the supervisor for banks. It is sufficient if the State IBC supervisor has powers that are adequate to correct improper practices or unsound conditions on the part of IBCs.

(5) Whether, under State law, the FDIC's powers (i) as receiver for a failed IBC and (ii) as insurer of the deposits in a failed IBC are equivalent to the powers the FDIC has as receiver for a failed bank.

The Corporation is particularly concerned that the Corporation's powers as receiver, and its rights as insurer (including its right of subrogation upon payment of insured deposits), should be adequately protected in the event of an IBC failure. Accordingly, the Corporation believes that State law should establish very nearly the same rules for failures of industrial banking companies as for bank failures.

It must be stressed that eligibility is only a threshold question. The FDIC's Board of Directors must also evaluate an applicant by the factors set forth in section 6 of the FDI Act, 12 U.S.C. 1816: the financial history and condition of the applicant, the adequacy of its capital structure, its future earnings prospects, the character of its management, the convenience and needs of its community, and the degree to which its corporate powers are consistent with the purposes of the FDI Act. Applicants which, although eligible to make application to become an insured bank, are found by the Corporation's Board of Directors, upon consideration of the foregoing statutory factors, to constitute unacceptable risks to the Federal deposit insurance fund will be denied membership in the Corporation.

The "corporate powers" issue can be especially significant for IBCs. Some States may allow IBCs to engage in activities going far beyond those mentioned by the Senate Banking Committee, and far beyond those generally undertaken by entities eligible for Federal deposit insurance. Such companies may pose new and unacceptable safety-and-soundness risks to the Federal deposit insurance fund.

The Corporation does not consider that Congress intended to expose the Federal deposit insurance fund to risks of this kind. Accordingly, although the FDIC may undertake to insure such a company, the FDIC may insist that the company limit its activities to those normally associated with depository institutions.

Dated: February 27, 1984.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–5704 Filed 3–1–84; 8:45 am]

BILLING CODE 6714–01–M

[2] A State's supervisory scheme does not have to meet every one of the guidelines before IBCs in that State can be eligible for insurance. Rather, the State's supervisory scheme taken as a whole must treat IBCs in a fashion that is "comparable" to the treatment given banks.

FEDERAL MARITIME COMMISSION

[Agreement No. 8900–23]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 8900–23 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Agreement No. 8900–23, between Barber Blue Sea Line, A. P. Moller-Maersk Line, Sea Land Service, Inc., United Arab Shipping Co., Hellenic Lines, Ltd., Nedlloyd Lijnen, B. V., National Shipping Company of Saudi Arabia and Watermen-Isthmian Line; known as the "8900" Lines Agreement, provides for the establishment of intermodal authority in the trade between the United States Pacific Coast points and U.S. inland points with transfer at U.S. Atlantic and Gulf Ports to ports in the Arabian/Persian Gulf and adjacent waters in the range west of Karachi and Northeast of Aden, but excluding both Aden and Karachi, and to all inland points in Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the

Federal Register unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–5756 Filed 3–1–84; 8:45 am]

BILLING CODE 6730–01–M

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on the 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 and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 7680–47.

Title: American West African Freight Conference.

Parties:

African Liner Service
America-Africa Line Ltd.
Barber West Africa Line
Cameroon Shipping Lines
Compagnie Maritime Zairoise, S.A.R.L.
Companhia Nacional De Navegacao
Delta Steamship Lines, Inc.
Elder Dempster Lines, Ltd.
Farrell Lines, Inc.
Medafrica Line
Nigeria America Line, Ltd.
Societe Ivoirienne De Transport Maritime
Torm West Africa Line
Westwind Africa Line Ltd.

Synopsis: The proposed amendment would revise Article 16 to permit a member line which has been assessed liquidated damages pursuant to the Conference's self-policing procedures to furnish a bond or letter of credit in the amount of the lesser of the assessed liquidation damages or $200,000, as a condition precedent to invoking arbitration.

Filing Party: Seymour H. Kligler, Esquire, Brauner, Baron, Rosenzweig, Kligler, Sparber & Bauman, 120 Broadway, New York, New York 10271.

Dated: February 23, 1984.

By order of the Federal Maritime Commission

Francis C. Hurney,

Secretary.

[FR Doc. 84–5677 Filed 3–1–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Johnson Line AB and Sundance Cruises Inc., c/o McDonald Enterprises, P.O. Box 21405, Seattle, WA 98111.

Dated: February 28, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–5675 Filed 3–1–84; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Johnson Line AB and Sundance Cruises Inc., c/o McDonald Enterprises, P.O. Box 21405, Seattle, WA 98111.

Dated: February 28, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–5676 Filed 3–1–84; 8:45 am]

BILLING CODE 6730–01–M

Controlled Carriers Under the Shipping Act, 1916; Compania Chilena de Navegacion Interoceanica S.A.; Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction of notice deleting Compania Chilena de navegacion Interoceanica S.A. from list of controlled carriers.

SUMMARY: The notice published February 7, 1984 (49 FR 4558–4559) incorrectly referred to the list of controlled carriers which was previously published in the **Federal Register** on "July 21, 1983." The correct date should read "July 11, 1983."

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

Francis C. Hurney,

Secretary.

[FR Doc. 84–5679 Filed 3–1–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

MNB Bancshares, Inc.; Formation of, Acquisition by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (49 FR 794) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) 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 (49 FR 794) 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 premissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these 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.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *MNB Bancshares, Inc.*, Malvern, Arkansas; to acquire 80 percent or more of the voting shares of Malvern National Bank, Malvern Arkansas. MNB Bancshares, Inc., also proposes to engage in the activity of real estate appraisal.

Board of Governors of the Federal Reserve System, February 27, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5717 Filed 3-1-84; 8:45 am]

BILLING CODE 6210-01-M

Meredian Bancorp; Correction

This notice corrects a previous Federal Register document (FR Doc. No. 84-3490), published at page 4986 of the issue for Thursday, February 9, 1984. Meredian Bancorp, Inc., Reading, Pennsylvania, has also applied under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) to indirectly acquire First Life Insurance Company, a non-bank subsidiary of First National Bancorp of Allentown, Inc. Firal would continue to engage in the business of underwriting as reinsurer, credit-related life, accident, and health insurance directly related to extensions of credit by Bank. These activities are permissible pursuant to section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an office in Allentown, Pennsylvania, serving the State of Pennsylvania. Comments on this application, must be submitted in writing, and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 not later than March 19, 1984.

Board of Governors of the Federal Reserve System, February 27, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5718 Filed 3-1-84; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (49 FR 794) 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 (49 FR 794) 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.

The application is available for immediate inspection at the Federal Reserve Bank. 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 possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any requests 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.

Comments regarding the application must be received at the Reserve Bank or the offices of the Board of Governors not later than March 19, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to acquire Regal Premium Finance, Inc., Maple Shade, New Jersey, and thereby engage in the activities of insurance premium financing; making or acquiring for its own account or for the account of others, loans and extensions of credit; purchasing consumer installment sales finance contracts; and making loans to small businesses and other extensions of credit, serving Alabama, New Jersey, Pennsylvania, and Texas.

Board of Governors of the Federal Reserve System, February 27, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5714 Filed 3-1-84; 8:45 am]

BILLING CODE 6210-01-M

Thunderbird Bank; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Thunderbird Bank* (to become Thunderbird Capital Corporation), Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Thunderbird Equities, Inc. (to become Thunderbird Bank), Phoenix, Arizona. Comments on this application must be received not later than March 27, 1984.

Board of Governors of the Federal Reserve System, February 27, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5716 Filed 3-1-84; 8:45 am]

BILLING CODE 6210-01-M

Wayne Bancorp, Inc.; 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 (49 FR 794) 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 March 23, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Wayne Bankcorp, Inc.*, Wayne, West virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Wayne County Bank, Wayne, West Virginia.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First LeRoy BanCorporation, Inc.*, LeRoy, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Leroy, LeRoy, Minnesota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FSB Bancorp, Inc.*, Altus, Oklahoma; to become a bank holding company be acquiring 100 percent of the voting shares of First State Bank of Altus, Altus, Oklahoma.

2. *North American Bancshares, Inc.*, Littleton, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of North American National Bank, Littleton, Colorado.

3. *Yoder Bankshares, Inc.*, Yoder, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Yoder, Kansas.

Board of Governors of the Federal Reserve System, February 27, 1984.

Williams W. Wiles,

Secretary of the Board.

[FR Doc. 84-5715 Filed 3-1-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Ray Employee's Stock Ownership Trust et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Nether agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 84-0064—Ray Employee's Stock Ownership Trust proposed acquisition of Ray Industries, Incorporated (Cornelius N. Ray, UPE).	Feb. 9, 1984.
(2) 84-0068—Jonathan Logan Incorporated's proposed acquisition of assets of Victoria Creations Incorporated, (Robert M. Andreoli, UPE).	Feb. 10, 1984.
(3) 84-0020—The Signal Companies, Incorporated's proposed acquisition of voting securities of Pullman Transportation Company, Incorporated.	Do.
(4) 84-0075—Apache Petroleum Company's proposed acquisition of assets of Diamond Shamrock Corporation.	Do.
(5) 84-0084—Great American Industries, Incorporated's proposed acquisition of voting securities of International Seaway Trading Corporation.	Do.
(6) 84-0079—Houston Natural Gas Corporation's proposed acquisition of voting securities of The Coastal Corporation.	Feb. 13, 1984.
(7) 83-0238—Toyota Motor Corporation's proposed formation of a joint venture corporation.	Do.
(8) 84-0039—General Motors Corporation's proposed formation of a joint venture corporation.	Do.
(9) 84-0012—Texaco Incorporated's proposed acquisition of voting securities of Getty Oil Corporation.	Do.
(10) 84-0014—Texaco Incorporated's proposed acquisition of voting securities of Getty Oil Corporation.	Do.
(11) 84-0069—Petrofina, S.A.'s proposed acquisition of assets of Champlin Petroleum Company, (Union Pacific Corporation, UPE).	Feb. 14, 1984.
(12) 84-0073—HealthWest Foundation's porposed acquisition of voting securities of Long Beach Community Hospital.	Feb. 15, 1984.
(13) 83-1087—Pioneer Concrete Services Limited's proposed acquisition of assets of Lone Star Industries, Incorporated.	Feb. 16, 1984.
(14) 84-0090—General Host Corporation's proposed acquisition of voting securities of Flower Time Incorproated.	Do.
(15) 84-0092—Capital Cities Communication, Incorporated's proposed acquisition of voting securities of Sutton Industries, Incorporated, (Herbert W. Sutton, UPE).	Do.
(16) 84-0099—Healthcare International, Incorporated's proposed acquisition of voting securities of American Health Group International Texas, Incorporated, (Michael D. Drobot, UPE).	Do.
(17) 84-0100—TRW Incorporated's proposed acquisition of voting securities of Trico Industries, Incorporated.	Do.
(18) 84-0081—Esmark Incorporated's proposed acquisition of Cudahy Specialty Foods Company, (General Host Corporation, UPE).	Feb. 17, 1984.
(19) 84-0087—Sabine Corporation's proposed acquisition of assets of Medders Oil Company.	Do.
(20) 84-0103—Formosa Plastics Corporation, USA's proposed acquisition of voting securities of J. M. Manufacturing Company, Incorporated.	Do.
(21) 84-0104—Fisons plc's proposed acquisition of voting securities of SciMed International, Incorporated, (Joseph R. Coulter, Jr., Wallace H. Coulter, UPE's).	Do.
(22) 84-0096—Alghanim Industries, Incorporated's proposed acquisition of voting securities of Big 4 Automotive, Incorporated, (Charles Anton, UPE).	Do.
(23) 84-0098—Maclean Hunter Limited's proposed acquisition of voting securities of The Toronto Sun Publishing Corporation.	Feb. 24, 1984.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-5736 Filed 3-1-84; 8:45 am]

BILLING CODE 6750-01-M

"Tar", Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes

AGENCY: Federal Trade Commission.

ACTION: Publication of "Tar", Nicotine and Carbon Monoxide Content of the Smoke of 207 Varieties of Cigarettes.

SUMMARY: The Federal Trade Commission publishes the "tar", nicotine, and carbon monoxide content of domestic cigarettes.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–376–8648) or Harold C. Pillsbury, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–523–3559).

SUPPLEMENTARY INFORMATION: The Federal Trade Commission's Laboratory has determined the "tar" (dry particulate matter), total alkaloid (reported as nicotine) and carbon monoxide content of 207 varieties of cigarettes. The Laboratory utilized the Cambridge filter method with the following specifications as set forth in the Commission's announcement of July 31, 1967 (31 FR 11178) and July 10, 1980 (45 FR 26483).

1. Smoke cigarettes to a 23 mm. butt length, or to the length of the filter and overwrap plus 3 mm. if in excess of 23 mm.

2. Base results on a test of approximately 90 cigarettes per brand, or type.

3. Cigarettes to be tested will be selected on a random basis, as opposed to "weight selection".

4. Determine particulate matter on a "dry" basis employing the gas chromatography method published by C. H. Sloan and B. J. Sublett in Tobacco Science 9, page 70, 1965, as modified by F. J. Schultz' and A. W. Spears' report published in Tobacco, vol. 162, no. 24, page 32, date June 17, 1966, to determine the moisture content.

5. Determine and report the "tar" content after subtracting moisture and alkaloids (as nicotine) from particulate matter.

6. Carbon monoxide is determined by non-dispersal infrared spectrophotometer.

Concerning the 207 varieties tested, 15 were capable of being smoked to 23 mm. The butt length of the other 192 varieties tested ranged from 23.8 mm. to an average of between 41.5 to 43.0 mm. the butt length of 171 of the 207 varieties tested exceeded 30 mm.

The samples used were obtained by attempting to purchase two packages of each variety of cigarettes as distributed by domestic cigarette manufacturers during August 1982 through December 1982 in each of 50 geographic locations throughout the country. Not all varieties of cigarettes were available in each of the 50 geographic locations and in these instances, one or more additional packages of cigarettes were purchased in those geographic locations where respective varieties were available. The samples utilized in the tests were representative of the 207 varieties of cigarettes as available throughout the country at the time of purchase.

The "tar" and carbon monoxide figures have been rounded to the nearest milligram (0.5 milligrams and greater rounded up, 0.4 milligrams and less rounded down) and the nicotine figures have been rounded to the nearest tenth of a milligram (0.05 milligrams and greater rounded up, 0.04 milligrams and less rounded down).

It should be noted that cigarette brands with assay results for "tar" and carbon monoxide below 0.5 mg. per cigarette and for nicotine below 0.05 mg. per cigarette are recorded in the accompanying table with asterisks (*) indicating that they are below 0.5 mg. "tar", 0.05 mg. nicotine and 0.5 mg. carbon monoxide. The table does not differentiate between these cigarettes because the current, approved testing methodology is not sensitive enough to differentiate between cigarettes at these levels.

On April 13, 1983, the Commission announced its determination that its present testing methodology for "tar", nicotine and carbon monoxide does not measure accurately Brown & Williamson's Barclay cigarettes and in fact understates the measured deliveries of these products. Therefore, it announced that until it adopts a new testing methodology that is able to measure Barclay cigarettes, future FTC Tar, Nicotine & Carbon Monoxide Reports will not include test results for Barclay cigarettes. As a result, no test results for Barclay cigarettes are included within this report. At that same time the Commission also found that there was a significant likelihood that the same problem (namely, an inaccurate reporting of the "tar", nicotine and CO delivery) existed with respect to Kool Ultra and Kool Ultra 100's, two other brands of cigarettes manufactured by Brown & Williamson. However, the Commission has not yet reached any conclusion whether Kool Ultra and Kool Ultra 100's are ranked inappropriately. Therefore, two asterisks (**) have been appended to Kool Ultra and Kool Ultra 100's in this report to indicate this continuing controversy.

By direction of the Commission, dated February 28, 1984.

Emily H. Rock,

Secretary.

TAR NICOTINE AND CO CONTENT OF 207 BRANDS OF DOMESTIC CIGARETTES TESTED BY FTC METHOD

Brand name	Type	Tar [1]	Nicotine [2]	Carbon Monoxide [3]
Alpine	King size; filter; menthol	14	0.8	14
Belair	do	9	0.7	9
Belair 100	100 mm; filter; menthol	9	0.7	10
Benson & Hedges	Reg size; filter (hard pack)	1	0.1	2
Do	King size; filter; (hard pack)	15	1.1	13
Benson & Hedges 100	100 mm; filter; menthol (hard pack)	17	1.1	15
Do	100 mm; filter; (hard pack)	17	1.1	15
Do	100 mm; filter	17	1.1	16
Do	100 mm; filter; menthol	17	1.1	16
Benson & Hedges Lights 100	do	10	0.7	11
Do	100 mm; filter	10	0.7	12
Benson & Hedges Ultra Light	100 mm; filter; menthol (hard pack)	6	0.5	6
Do	100 mm; filter; (hard pack)	6	0.5	6
Bright	King size; filter; menthol	6	0.5	8
Bright 100	100 mm; filter; menthol	7	0.6	10
Bull Durham	King size; filter	28	1.8	23
Cambridge	King size; filter (hard pack)	(*)	(*)	(*)
Do	King size; filter	1	0.1	1
Cambridge 100	100 mm; filter	5	0.4	5
Camel	King size; filter	15	1.0	14

TAR NICOTINE AND CO CONTENT OF 207 BRANDS OF DOMESTIC CIGARETTES TESTED BY FTC METHOD—Continued

Brand name	Type	Tar [1]	Nicotine [2]	Carbon Monoxide [2]
Do	Reg size; nonfilter	20	1.2	12
Camel Lights	King size; filter (hard pack)	8	0.6	8
Do	King size; filter	8	0.6	10
Camel Lights 100	100 mm; filter	12	0.8	14
Carlton	King size; filter; (hard pack)	(*)	(*)	(*)
Do	King size; filter; menthol	1	0.1	1
Do	King size; filter	1	0.1	2
Carlton 100	King size; filter (hard pack)	1	0.1	(*)
Do	100 mm; filter (hard pack)	1	0.1	(*)
Do	100 mm; filter; menthol	5	0.4	5
Do	100 mm; filter	5	0.4	5
Carlton 120	120 mm; filter; menthol	6	0.5	4
Do	120 mm; filter	6	0.6	5
Chesterfield	King size; filter	15	1.0	15
Do	Reg. size; nonfilter	21	1.2	12
Do	King size; nonfilter	25	1.5	15
Chesterfield 100	100 mm; filter;	15	1.0	16
Decade	King size; filter	6	0.5	5
Do	King size; filter; menthol	6	0.5	5
Doral II	King size; filter	5	0.4	3
Do	King size; filter; menthol	5	0.4	3
English Ovals	Reg size; nonfilter (hard pack)	22	1.5	12
Do	King size; nonfilter (hard pack)	29	2.1	15
Eve Lights 100	100 mm; filter	13	1.0	13
Do	100 mm; filter; menthol	13	1.0	13
Eve Lights 120	120 mm; filter; menthol (hard pack)	14	1.0	11
Do	120 mm; filter (hard pack)	14	1.1	11
Galaxy	King size; filter	15	0.9	15
Golden Lights	....do	9	0.7	9
Do	King size; filter; menthol	9	0.7	9
Golden Lights 100	100 mm; filter; menthol	9	0.7	9
Do	100 mm; filter	9	0.8	9
Half & Half	King size; filter	17	1.2	16
Herbert Tareyton	King size; nonfilter	26	1.7	16
Iceberg 100	100 mm; filter; menthol	3	0.3	4
Kent	King size; filter	12	0.9	11
Do	King size; filter (hard pack)	12	0.9	12
Kent 100	100 mm; filter	14	1.0	12
Do	100 mm; filter; menthol	15	1.2	13
Kent III	King size; filter	3	0.3	3
Kent III 100	100 mm; filter	4	0.4	5
Kool	King size; filter; menthol (hard pack)	16	1.1	15
Do	King size; filter; menthol	17	1.1	15
Do	Reg size; nonfilter; menthol	20	1.2	14
Kool Lights	King size; filter; menthol	9	0.7	10
Kool Lights 100	100 mm; filter; menthol	10	0.8	9
Kool Milds	King size; filter; menthol	11	0.8	12
Kool Milds 100	100 mm; filter; menthol	11	0.8	13
Kool Super Longs 100	....do	15	1.0	16
Kool Ultra**	King size; filter; menthol	2	0.2	1
Kool Ultra 100**	100 mm; filter; menthol	5	0.4	4
L & M	King size; filter	14	0.9	13
Do	King size; filter (hard pack)	14	0.9	13
L & M 100	100 mm; filter	14	1.0	15
L & M Lights	King size; filter	9	0.8	7
L & M Lights 100	100 mm; filter	6	0.6	5
Do	100 mm; filter; menthol	8	0.8	6
Lark	King size; filter	14	1.0	13
Lark 100	100 mm; filter	16	1.1	15
Lark Lights	King size; filter	13	0.9	12
Lark Lights 100	100 mm; filter	14	1.0	14
Long Johns 120	120 mm; filter	18	1.3	19
Do	120 mm; filter; menthol	17	1.3	18
Lucky 100	100 mm; filter	3	0.3	4
Lucky Strike	King size; filter	11	0.8	11
Do	King size; filter (hard pack)	11	0.8	12
Do	Reg size; nonfilter	24	1.4	16
Marlboro	King size; filter menthol (hard pack)	15	0.9	13
Do	King size; filter; menthol	15	0.9	14
Do	King size; filter	17	1.0	16
Do	King size; filter (hard pack)	17	1.1	15
Marlboro 100	100 mm; filter	17	1.1	15
Do	100 mm; filter (hard pack)	17	1.1	15
Marlboro Lights	King size; filter (hard pack)	10	0.7	11
Do	King size; filter	11	0.7	11
Marlboro Lights 100	100 mm; filter	11	0.7	12
Max 120	120 mm; filter	18	1.4	17
Do	120; filter menthol	18	1.4	17
Merit	King size; filter	9	0.6	11
Do	King size; filter; menthol	9	0.6	11
Merit 100	100 mm; filter; menthol	10	0.7	12
Do	100 mm; filter	11	0.7	13
Merit Ultra Light	King size; filter	4	0.3	4
Do	King size; filter; menthol	4	0.3	4
Merit Ultra Lights 100	100 mm; filter; menthol	4	0.3	4
Do	100 mm; filter	6	0.5	7
Montclair	King size; filter; menthol	16	1.0	16
More 120	120 mm; filter	17	1.1	20
Do	120 mm; filter; menthol	15	1.2	18
More Lights 100	100 mm; filter; menthol (hard pack)	7	0.6	8

TAR NICOTINE AND CO CONTENT OF 207 BRANDS OF DOMESTIC CIGARETTES TESTED BY FTC METHOD—Continued

Brand name	Type	Tar [1]	Nicotine [2]	Carbon Monoxide [3]
Do	100 mm; filter; (hard pack)	8	0.6	8
Multifilter	King size; filter	12	0.8	11
Do	King size; filter; menthol	13	0.8	11
Newport	King size; filter; menthol (hard pack)	16	1.1	17
Do	King size; filter; menthol	17	1.1	17
Newport 100	100 mm; filter; menthol	20	1.4	19
Newport Lights	King size; filter; menthol	9	0.7	9
Do	King size; filter; menthol (hard pack)	9	0.7	9
Newport Lights 100	100 mm; filter; menthol	10	0.8	10
Newport Red	King size; filter	13	1.0	15
Do	King size; filter (hard pack)	13	1.0	15
Northwind	King size; filter; menthol	10	0.7	11
Northwind 100	100 mm; filter; menthol	11	0.7	11
NOW	King size; filter (hard pack)	(*)	(*)	(*)
Do	King size; filter	1	0.1	1
Do	King size; filter; menthol	1	0.1	1
NOW 100	100 mm; filter (hard pack)	(*)	(*)	(*)
Do	100 mm; filter; menthol	2	0.2	1
Do	100 mm; filter	2	0.2	2
Old Gold Filter	King size; filter	18	1.2	18
Old Gold Filter 100	100 mm; filter	20	1.4	19
Old Gold Lights	King size; filter	10	0.8	11
Old Gold Straight	King size; nonfilter	26	1.6	18
OMNI 100	100 mm; filter; menthol	7	0.6	6
Pall Mall	King size; filter	17	1.1	17
Do	King size; nonfilter	24	1.4	16
Pall Mall 100	100 mm; filter	16	1.2	15
Pall Mall Extra Light	King size; filter	7	0.6	6
Pall Mall Light 100	100 mm; filter	9	0.8	7
Do	100 mm; filter; menthol	13	1.0	12
Parliament Lights	King size; filter (hard pack)	9	0.6	9
Do	King size; filter	10	0.7	9
Parliament Lights 100	100 mm; filter	11	0.9	10
Philip Morris	Reg size; nonfilter	22	1.3	13
Philip Morris Commander	King size; nonfilter	27	1.6	15
Picayune	Reg size; nonfilter	18	1.0	14
Players	Reg size; nonfilter; (hard pack)	27	1.9	15
Raleigh	King size; filter	15	1.0	16
Do	King size; nonfilter	24	1.4	17
Raleigh 100	100 mm; filter	16	1.1	16
Raleigh Lights	King size; filter	9	0.7	9
Raleigh Lights 100	100 mm; filter	10	0.8	12
Rebel	King size; filter	11	0.9	12
Rebel 100	100 mm; filter	12	1.0	13
Salem	King size; filter; menthol	16	1.0	14
Salem 100	100 mm; filter; menthol	15	1.0	13
Salem Lights	King size; filter; menthol	8	0.6	9
Salem Lights 100	100 mm; filter; menthol	9	0.7	11
Salem Slim Lights 100	100 mm; filter; menthol (hard pack)	7	0.6	8
Salem Ultra	King size; filter; menthol	4	0.4	4
Salem Ultra 100	100 mm; filter; menthol	5	0.4	5
Saratoga 120	120 mm; filter (hard pack)	14	0.9	14
Do	120 mm; filter; menthol (hard pack)	14	1.0	14
Satin 100	100 mm; filter	10	0.8	10
Do	100 mm; filter; menthol	10	0.8	11
Silva Thins 100	100 mm; filter	12	1.0	9
Do	100 mm; filter; menthol	12	1.0	9
Spring 100	do	19	1.0	16
St.Moritz 100	100 mm; filter	15	1.1	14
Do	100 mm; filter; menthol	15	1.1	14
Tall 120	120 mm; filter; menthol	17	1.3	16
Do	120 mm; filter	19	1.5	19
Tareyton	King size; filter	14	1.0	15
Tareyton 100	100 mm; filter	14	1.0	15
Tareyton Lights	King size; filter	5	0.4	4
Tareyton Long Lights 100	100 mm; filter	7	0.6	7
Triumph	King size; filter; menthol	3	0.3	3
Do	King size; filter	3	0.4	3
Triumph 100	100 mm; filter	4	0.4	5
Do	100 mm; filter; menthol	4	0.5	5
True	King size; filter	5	0.4	5
Do	King size; filter; menthol	5	0.4	5
True 100	100 mm; filter	8	0.6	8
Do	100 mm; filter; menthol	8	0.6	9
Vantage	King size; filter	9	0.7	12
Do	King size; filter; menthol	10	0.7	13
Vantage 100	100 mm; filter	9	0.7	12
Vantage Ultra Lights	King size; filter	5	0.4	6
Do	King size; filter; menthol	5	0.4	6
Vantage Ultra Lights 100	100 mm; filter	5	0.4	6
Do	100 mm; filter; menthol	5	0.4	7
Viceroy	King size; filter	15	0.9	17
Viceroy Rich Lights	do	9	0.7	10
Viceroy Rich Lights 100	100 mm; filter	10	0.8	12
Viceroy Super Long 100	do	14	1.0	16
Virginia Slims 100	do	15	1.0	14
Do	100 mm; filter; menthol	15	1.0	14
Virginia Slims Lights 100	100 mm; filter; menthol (hard pack)	8	0.6	7
Do	100 mm; filter (hard pack)	8	0.6	8
Winston	King size; filter	15	1.0	16

TAR NICOTINE AND CO CONTENT OF 207 BRANDS OF DOMESTIC CIGARETTES TESTED BY FTC METHOD—Continued

Brand name	Type	Tar [1]	Nicotine [2]	Carbon Monoxide [3]
Do	King size; filter (hard pack)	16	1.0	15
Winston 100	100 mm; filter	16	1.1	16
Winston International 100	100 mm; filter (hard pack)	16	1.0	14
Winston Lights	King size; filter	9	0.6	10
Winston Lights 100	100 mm; filter	12	0.8	14
Winston Ultra	King size; filter	5	0.4	6
Winston Ultra 100	100 mm; filter	5	0.4	6

[1] "Tar"—milligrams total particulate matter less nicotine and water per cigarette.
[2] Nicotine total alkaloids reported in milligrams per cigarette.
[3] Carbon Monoxide reported in milligrams per cigarette.
*Indicates "tar" below 0.5 mg.; nicotine below 0.05 mg. or carbon monoxide below 0.5 mg. per cigarette.
**See statement in text concerning Kool Ultra brands.

[FR Doc. 84-5628 Filed 3-1-84; 8:45 am]
BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Bonds and Insurance

AGENCY: Office of Policy and Management System, GSA.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice on the information collection that appeared in the **Federal Register** of Monday, February 6, 1984 (49 FR 4437). This action is necessary to:

a. Indicate that the information collection is a "new" requirement rather than an "existing" requirement in the summary;

b. Correct a technical error in paragraph a under **SUPPLEMENTARY INFORMATION** and

c. Correct the date line.

The following corrections are made in FR Doc. 84-3137, published at 49 FR 4437, February 6, 1984.

In the **SUMMARY** on line four, change the words "an existing" to read: "a new."

In the **SUPPLEMENTARY INFORMATION,** paragraph a is revised to read as follows:

a. *Purpose.* This collection requires construction and building service contractors who use individual sureties to furnish bonds and insurance agreements before proceeding with the work. These agreements protect the Government from loss if a contractor defaults.

The **DATE** line is changed to read as follows:

DATE: Submit comments on the proposal before March 9, 1984.

Dated: February 24, 1984.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 84-5622 Filed 3-1-84; 8:45 am]
BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 24.

Public Health Service

National Institutes of Health

Subject: Environmental Factors and Chronic Renal Failure—New.
Respondents: Individuals.
Subject: Maryland Study of Death Certification—New.
Respondents: Physicians.
OMB desk officer: Fay S. Iudicello.

Food and Drug Administration

Subject: Labeling Requirements for Human Drugs, Biologics and Veterinary Drugs—Existing Collection.
Respondents: Businesses.
OMB desk officer: Bruce Artim.

Health Care Financing Administration

Subject: Contractor Information Collections—Regional Office. Collateral Contacts (0938-0203)—Extension/No Change.
Respondents: People or institutions with knowledge to substantiate financial status of Medicaid beneficiaries.
OMB desk officer: Fay S. Iudicello.

Social Security Administration

Subject: Reconciliation Statement (0960-0217)—Extension/No Change.
Respondents: A sample of local governments with employees covered by social security.
OMB desk officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: February 28, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-5732 Filed 3-1-84; 8:45 am]
BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Mental Health Research Education Review Committee; Meeting; Correction

This notice is to correct a document that was published in **Federal Register** Volume #49, Issue #33, Pages 6016-6017, Document Number 84-4157 on February 16, 1984 as follows: The open portion of the Mental Health Research Education Review Committee will be March 7, 1984 from 9:00-10:00 a.m., instead of March 7-9 from 9:00-10:00 a.m.

Dated: February 27, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration

[FR Doc. 84-5680 Filed 3-1-84; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Board of Scientific Counselors, NIOSH; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) Committee meeting. The meeting will be open to the public for observation and participation, limited only by the space available.

Date: March 20-21, 1984.

Time: 1:00 p.m.—4:30 p.m.—March 20, 9:00 a.m.—12:00 noon—March 21.

Place: Centers for Disease Control, Conference Room 207, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: The Board of Scientific Counselors is charged with advising the Director, NIOSH, on NIOSH research programs. At this initial meeting of the Board, the agenda will include an orientation to the NIOSH mission, goals, and budget. In addition to becoming familiar with specific research programs, the Board will learn about the NIOSH grants program.

Additional information may be obtained from: Ralph J. Touch, Assistant to the Deputy Director, NIOSH, CDC, Building 1, Room 3019, Atlanta, Georgia 30333, Telephones: FTS: 236-3773, Commercial: 404/329-3773.

Dated: February 27, 1984.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 84-5848 Filed 3-1-84; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 75N-0184; DESI 3265]

Trocinate Tablets; Denial of Hearing; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a hearing and withdraws approval of the new drug application for Trocinate Tablets because the product lacks substantial evidence of effectiveness. The drug is used in treating the irritable bowel syndrome.

EFFECTIVE DATE: April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

I. The Drug

This notice covers the drug product listed below:

NDA 6-098; Trocinate Tablets containing thiphenamil hydrochloride 100 and 400 milligrams; Wm. P. Poythress & Co., Inc., 16 North 22d St., P.O. Box 26946, Richmond, VA 23261.

II. Recommended Uses

Trocinate Tablets is currently labeled for relief of pain and discomfort from smooth muscle spasm associated with spastic colitis, irritable colon, mucous colitis, acute enterocolitis, and functional gastrointestinal disorders. The recommended initial dose is 400 milligrams.

III. Background

In a notice published in the **Federal Register** of June 18, 1971 (36 FR 11754), the Food and Drug Administration (FDA) announced its evaluation of a report on Trocinate Tablets received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group. The notice stated that the product was effective as adjunctive therapy in the treatment of peptic ulcer, probably effective as adjunctive therapy in the irritable bowel syndrome and neurogenic bowel disturbances, and possibly effective or lacking substantial evidence of effectiveness for all other indications. Bioavailability data were required as a condition for continued marketing of the product.

In a notice published in the **Federal Register** of November 11, 1975 (40 FR 52649), the Director of the Bureau of Drugs (the Director) announced that Trocinate Tablets had been mistakenly evaluated in the 1971 notice as an anticholinergic rather than an antispasmodic, and that the 1971 evaluation of the drug as an effective adjunct in treating peptic ulcer was inappropriate. The Director stated that he would continue to regard Trocinate as probably effective in treating irritable bowel syndrome and acute enterocolitis. The 1975 notice also reclassified all other indications listed in the 1971 notice to lacking substantial evidence of effectiveness and offered an opportunity for a hearing on this proposal. The proposal was not acted upon by Poythress.

In a second notice published in the **Federal Register** of November 11, 1975 (40 FR 52644), the Director announced that Trocinate could remain on the market under a temporary exemption pending completion of clinical trials of its effectiveness in treating the irritable bowel syndrome and acute enterocolitis. The notice established a schedule for Poythress to submit protocols for at least two clinical trials and allowed Poythress 18 months to complete adequate and well-controlled studies.

In 1976, Poythress submitted the results of one study investigating the effectiveness of Trocinate in functional diarrhea. In a notice published in the **Federal Register** of August 19, 1977 (42 FR 41917), the Director concluded that the submission was not a study of the irritable bowel syndrome and did not show a statistically significant benefit of thiphenamil, the active ingredient in Trocinate. In that notice the Director also announced that Trocinate was no longer eligible to remain on the market under the temporary exemption, reclassified Trocinate to lacking substantial evidence of effectiveness, proposed to withdraw approval of the new drug application, and offered an opportunity for a hearing on the proposal.

On August 22, 1977, Poythress requested a hearing on the effectiveness of Trocinate in treating irritable bowel syndrome (functional diarrhea). The firm submitted additional analyses of its earlier study and other information to support its hearing request. Poythress submitted no information on the acute enterocolitis indication.

The Commissioner has reviewed the data and information submitted by Poythress and concludes that there is no genuine and substantial issue of fact justifying a hearing. Accordingly, the hearing request is denied and approval of NDA 6-098 is withdrawan. A full discussion follows:

IV. Data Submitted To Support Claims of Effectiveness

1. *"Trocinate Irritable Bowel—Functional Diarrhea Study," Rider, J. A. and W. Davis, unpublished*—This was a double-blind, parallel study comparing the effectiveness of Trocinate (400 milligrams taken 4 times daily) and placebo in 20 healthy men with functional diarrhea (to be evidenced by at least 4 stools a day). All antidiarrheal drugs were eliminated during a 2-day washout period. To establish baseline values, patients were allowed in drug therapy during the first week of the study. Patients then were randomized to Trocinate or placebo for a 2-week treatment period. Patients were evaluated on the following criteria:

Number of stools; consistency of stools (watery, loose, and formed); stool weight (dry and wet); symptoms (cramps, gas, and diarrhea); and colon motility.

In its initial submission of study results (December 1976), Poythress claimed no statistically significant results in favor of Trocinate in stool wet weight, stool dry weight, stool number, or stool consistency. Poythress asserted that Trocinate reduced colon motility more than placebo, but did not indicate whether the difference was statistically significant. The Director criticized the study in the 1977 notice because it was a study of diarrhea, not the irritable bowel syndrome, and because it did not demonstrate a statistically significant benefit of Trocinate over placebo (42 FR 41918).

In response to these criticisms, Poythress asserted that the study did investigate the effectiveness of Trocinate in treating irritable bowel syndrome, and that it was designed according to FDA guidelines for testing drugs used to treat functional gastrointestinal syndromes. Poythress claimed that the study indicated positive effects for the Trocinate group in all parameters although, except for colon motility, the differences between drug and placebo were not statistically significant. Poythress attributed the lack of statistical significance in these parameters to the small number of patients enrolled in the study. Poythress also presented a new statistical analysis of the results for colon motility, which found a statistically significant difference in favor of Trocinate.

Whether this is a study of irritable bowel syndrome or functional diarrhea is immaterial. The study does not establish Trocinate's effectiveness for any condition because, for the following reasons, it is not adequate and well-controlled.

First, the plan or protocol for the study did not include a method of selection of subjects that assured that the subjects were suitable for the purposes of the study (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*i*)). A clinical study is intended to predict, on the basis of the experience of a small sample of patients with a given disease, what the response of the generality of patients with that disease will be to a specific treatment. For the results of such a study to be meaningful, the patients and disease that are to be dealt with must be carefully identified. There must be criteria for diagnosis and exclusions that prevent admission into the study of patients with diseases that are superficially similar to the disease under study but that are different in severity, etiology, or pathogenesis.

In the Trocinate study, the purpose was to test the product's effectiveness in treating diarrhea. Among the documents that Poythress submitted is one dated April 17, 1975, entitled "Trocinate Study," in which Poythress identified the type of patients and the disease in which it intended to study the drug. The document stated that the subjects of the study would be 20 healthy men with diarrhea and defined diarrhea as "at least 4 stools/day." However, a tabulation submitted by Poythress of the physician's interviews for day 1 of the study shows that only 4 of the 20 subjects who participated in the study actually had at least 4 stools a day (Table 2—Trocinate Diarrhea Study—Stool Number). Thus, the great majority of the subjects were not suffering from the disease (as defined in the protocol) against which the effectiveness of the drug was to be tested and thus were not suitbable for the study. The method of selection of subjects used in the study clearly failed to assure that the subjects met the entrance criteria for the study, and, as a result, this study is deficient under FDA's regulations.

The method of selection of subjects is also deficient because it failed to assure the comparability of test and control groups with regard to pertinent variables. The object of a controlled clinical study is to establish a basis on which to draw a causal connection between an observed difference in response between treatment and control groups and treatment with the test drug. Before such a connection can be made, however, it is necessary to make the two groups as alike as possible with respect to all pertinent variables except the treatment received. One pertinent variable is the occurrence of the disease. In an adequate and well-controlled study of diarrhea, all of the patients in both the treatment and control groups would suffer from this disease. However, in the study submitted by Plythress, four of the control subjects had diarrhea (as defined in the protocol), but none of the subjects in the treatment group suffered from this disease. The study consequently is deficient under 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*) because the plan or protocol for the study did not include a method of selecting subjects that assured the comparability of test and control groups.

Finally, the study is deficient under FDA's regulations because the plan or protocol for the study did not include a summary of the statistical methods that Poythress intended to use in analyzing and evaluating the data from the study (21 CFR 314.111(a)(5)(ii)(*a*)(*5*)). FDA pointed out this deficiency to Poythress in a letter, sent before the study was conducted, from Dr. E. DeVaughn Belton to Dr. J. Alfred Rider, dated November 11, 1975. Poythress never corrected this deficiency.

A summary of statistical methods is necessary to ensure that the sponsor of a study does not draw conclusions that are not justified by the results of the study. Without such a summary in the protocol, the sponsor can analyze and reanalyze the data from the study until it arrives at a computation that produces a value that supports the effectiveness of the drug. This problem is illustrated by Poythress' submission in the immediate matter. Poythress conducted four statistical tests on the colon motility data: the Mann Whitney U test, the t-test, the Friedman Two-way Analyses of Variance, and the Wilcoxon Signed Rank Test. The first three tests revealed no statistically significant differences. Only the analyst's selection of a fourth methodology, after negative findings under three conventional methodologies, produced a statistically significant result. In light of the sponsor's treatment of the data, this result cannot be accepted as evidence of the effectiveness of Trocinate.

Thus, there are three critical deficiencies in the Trocinate study. These deficiencies render this study inadequate and uncontrolled under FDA's regulations. An uncontrolled study is not acceptable as the sole basis for the approval of claims of effectiveness (21 CFR 314.111(a)(5)(ii)(*c*)). Consequently, because it submitted only this one study, the sponsor has failed to submit substantial evidence to support the effectiveness of its drug. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620 (1973).

2. *"Trocinate Bioavailability Study," Davis, W., unpublished, 1976; "Bioavailability Data from Trocinate Irritable Bowel-Functional Diarrhea Study," paragraph 1, above*—Poythress submitted two sets of bioavailability data, one derived from the bioavailability portion of the diarrhea study described above, and the other derived from a separate bioavailability study. In addition to measuring the gastrointestinal symptoms, the investigators in the diarrhea study measured the levels of Trocinate in the blood once during the control period and three times during the treatment period. In the Trocinate bioavailability study, the levels of Trocinate in the blood and in urine were measured in six healthy subjects.

The purpose of these studies was to determine the rate and extent of the

absorption of Trocinate into the body. They were not designed to, and obviously cannot, demonstrate the effectiveness of Trocinate in irritable bowel syndrome. In the absence of data derived from clinical trials showing Trocinate's effectiveness, the question of its bioavailability is academic.

3. *Protocols for additional clinical investigations of Trocinate*—In 1977 Poythress submitted to the agency protocols for additional clinical investigations of Trocinate to be conducted under an exemption for investigational new drugs (21 U.S.C. 355(i); 21 CFR Part 312). The firm stated that the studies would be completed within 18 months of initiation. While Poythress initially submitted a number of interim reports on the studies, it has not submitted any data or results since 1980. The Commissioner cannot delay this proceeding any longer. Poythress may, of course, continue these studies under the investigational exemption. In the event it establishes the effectiveness of Trocinate, Poythress may submit data to the agency under the new drug application procedures (21 CFR Part 314).

4. *Trocinate's chemical relationship to other drugs in the notice*—Finally, Poythress argues that Trocinate is not chemically related to any of the other drugs covered by the 1977 Federal Register notice, and that a product that is closely related to Trocinate, adiphenine, was not covered by that notice or any other efficacy notice.

This argument is without merit. The Drug Amendments of 1962 require holders of new drug applications for drugs approved as safe prior to 1962 to establish that these drugs are also effective. See *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* 412 U.S. at 613–614. In accordance with these amendments, the 1977 notice proposed to withdraw the approval of the new drug application for Trocinate for lack of substantial evidence of effectiveness. Trocinate's chemical relationship to the other drugs in the notice is immaterial.

Nor is it relevant that adiphenine, the drug referred to by Poythress as similar to Trocinate, was not included in the 1977 notice, or any other efficacy notice. The manufacturer of adiphenine voluntarily withdrew the drug from the market because it was unable to establish that adiphenine is effective.

V. Summary

Poythress has failed to provide substantial evidence from adequate and well-controlled clinical studies that demonstrates that Trocinate Tablets is effective in the treatment of irritable bowel syndrome. The Rider study is not adequate and well-controlled. The bioavailability data submitted were not designed to test the effectiveness of Trocinate.

VI. Findings

On the basis of the review of the documentation offered to support the claims of effectiveness for Trocinate Tablets, the Commissioner finds that there is a lack of substantial evidence that Trocinate Tablets has the effect that it is represented to have under conditions of use prescribed, recommended, or suggested in its labeling.

The Commissioner finds that Poythress has failed to identify specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. In addition, the Commissioner finds no basis to grant any further delay in this proceeding.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505 (d) and (e), 76 Stat. 781–782 as amended (21 U.S.C. 355 (d) and (e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), approval of NDA 6–098, and all amendments and supplements thereto, is hereby withdrawn effective April 2, 1984.

Dated: February 23, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–5078 Filed 3–1–84; 8:45 am]

BILLING CODE 4610–01–M

Health Care Financing Administration

Medicare Program; Reissuance of the Wage Index in the 1981 Schedule of Limits on Hospital Per Diem Inpatient General Routine Operating Costs

Correction

IN FR Doc. 84–4107, beginning on page 6175, in the issue of Friday, February 17, 1984, make the following corrections:

1. On page 6178, in Table I–A, in the entry for "Davenport-Rock Island-Moline, IA–IL" the wage index should read "[5 6].9380".

2. Also on page 6178, in the table, in the entry for "Elkhart, IN" the wage index should read "* [5 6].8372".

3. On page 6179, in the second column, in the entry for "Norfolk-Virginia Beach-Portsmouth VA-NC" the wage index should read "[5 6].9887".

4. On page 6179, in the second column, in the entry for "Rapid City, SD", the wage index should read "* [1].8680".

5. On page 6179, in the second column, in the entry for "St Louis, MO-IL", the second line of the wage index should "([4].9975)".

6. On page 6179, in the third column, in the entry for "Springfield, MO", the second line of the wage index should read "([4].8932)".

7. On page 6179, in Table I-B, in the entry for "Missouri", the second line of the wage index should read "([2].9151)".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Section 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

On January 6, 1984, in 49 FR 939, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for Calendar Year 1980 and subsequent years until further notice. These assessment rates were proposed pursuant to the authority contained in the Acts of August 1, 1914, (38 Stat. 583), and March 7, 1928, (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective 30 days after date of initial publication in the Federal Register.

WAPATO IRRIGATION PROJECT—GENERAL

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-

in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 171, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 20 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Time for Payment of Water Charges

The assessments fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1984 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report..... $15.00
(2) Requests for Verification of Account delinquency Status, Per report..... $10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee) Per Bill.....$10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner of Lessee of Record (in addition to minimum billing fee), Per Bill..... $10.00
(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report.....$10.00
(6) Request for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County Recording Fee..... ($10.00).

AHTANUM UNIT

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1984 and subsequent years until further notice, is fixed at $7.00 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

TOPPENISH-SIMCOE UNIT

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1984 and subsequent years until further notice, is fixed at $7.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

WAPATO-SATUS UNIT

Charges

(a) The basic operation and mintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1984 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts.....$22.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands..... $22.50
(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre.....$2.20
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands..... $23.60

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied against all tracts of less than one acre.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A and B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Edmond G. Payne,
Acting Area Director.

[FR Doc. 84-5564 Filed 3-1-84; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Montana; Request for Public Comment on Fair Market Value, and Maximum Economic Recovery and Announcement of Public Hearing

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Notice of Request for Public Comment on Fair Market Value, and Maximum Economic Recovery and Announcement of Public Hearing.

SUMMARY: The Bureau of Land Management requests public comment of the fair market value and maximum economic recovery of certain coal resources it proposes to lease noncompetitively pursuant to Pub. L. 94-401, 94 Stat. 1701 of October 9, 1980. The Bureau of Land Management proposes

to issue noncompetitive leases to the Garfield County Exploration Company and Shale Oil Syndicate, Inc., assignees of Chevron U.S.A., Inc., Case File M 56927; Peabody Coal Company, Case File M 56926; and Consolidation Coal Company, Case File M 56925 in Big Horn and Rosebud Counties as follows:

M 56927—Garfield County Exploration Company, Shale Oil Syndicate, Inc.

T. 9 S., R. 39 E., P.M.M.,
Sec. 14: SW¼NW¼, SW¼SE¼NW¼, SW¼, NW¼SW¼SE¼, S½SW¼SE¼;
Sec. 23: NW¼NE¼NE¼, S½NE¼ NE¼,NW¼NE¼, S½NE¼, NE¼NW¼, NE¼SE¼, N½NW¼SE¼,SE¼NW¼ SE¼, N½SE¼SE¼, SE¼; SE¼SE¼;
Sec. 25: E½NW¼, E½NW¼NW¼, NE¼ SW¼NW¼,S½SW¼NW¼, N½N½ SW¼;
Sec. 26: S½S½NE¼, SE¼SW¼NW¼, S½ SE¼NW¼, SW¼, N½NE¼SE¼, SW¼ NE¼SE¼, NW¼SE¼, NW¼SW¼SE¼;
Sec. 35: NW¼NE¼NW¼, N½NW¼ NW¼, SW¼NW¼NW¼.

1,050.00 Acres, Big Horn County, Montana.

The recoverable coal resources of this tract are 129.2 million tons. In descending order, the minable coal seams are: Roland, Smith, Anderson, Dietz 1 and Dietz 2. Over half of the tract; the Anderson, Dietz 1 and Dietz 2 seams are merged into a single seam approximately 80 feet in thickness. In the western half of the tract, the Anderson splits from the Dietz seams. Here, the Anderson seam is approximately 32 feet in thickness, the interburden approximately 10 feet, and the Dietz seam approximately 50 feet.

In Section 25, there is an area where all three seams are separated and another area where the Anderson and Dietz only, are merged.

	Btu per pound	Sulfur (percent)	Ash (percent)	H_2O (percent)
Roland	7,674	0.28	6.0	31.3
Smith	8,581	0.72	6.0	62.9
Anderson-Dietz	9,636	0.37	4.3	20.8

M 56925—Consolidation Coal Company

T. 9 S., R. 39 E., P.M.M.,
Sec. 25: Lots 1,2,3,4, W½E½, S½N½SW¼, S½SW¼;
Sec. 26: SE¼NE¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, SE¼SE¼;
Sec. 35: N½NE¼, SW¼NE¼, N½SE¼ NE¼, SW¼SE¼NE¼, NE¼NE¼NW¼, S½NE¼NW¼, SE¼NW¼NW¼, S½ NW¼, N½SW¼, N½NW¼SE¼, SW¼ NW¼SE¼.
T. 9 S., R. 40 E., P.M.M.,
Sec. 30: Lot 3, NE¼SW¼.

981.37 Acres, Big Horn County, Montana.

The recoverable coal resources of this tract are 124.5 million tons. In descending order, the minable coal seams are: Smith, Anderson, Dietz 1 and 2.

The uppermost seam, the Smith, is in-place only along the western reaches of the tract. Where recoverable, the Smith reanges from 10–14 feet in thickness and contributes 4.7 million tons to the resource total. The Anderson and Dietz seams account for the remainder. Over much of the tract, the Anderson, Dietz 1, and Dietz 2 seams are merged into a single seam approximately 80 feet in thickness. Near the western edge of the tract, the Anderson splits from the Dietz seams. Here, the Anderson seam is approximately 32 feet in thickness, the interburden approximately 10 feet, and the Dietz seam approximately 50 feet.

In Sections 25 and 30, there is an area where all there seams are separated, and another area where the Anderson and Dietz 1 only, are merged.

The quality of the Anderson-Dietz and Smith seams are as follows:

	Btu per pound	Sulfur (percent)	Ash (percent)	H_2O (percent)
Smith	8,581	0.72	6.0	26.9
Anderson-Dietz	9,636	0.37	4.3	20.8

M 56926—Peabody Coal Company

T. 1 S., R. 42 E., P.M.M.,
Sec. 10: NE¼SE¼, S½SE¼;
Sec. 14: W½NE¼, NW¼, S½;
Sec. 20: N½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 22: NE¼, N½NW¼, SE¼NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 24: All;
Sec. 26: NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 28: NE¼NE¼, S½NE¼, SE¼;
Sec. 30: Lot 4, E½SW¼, NW¼SE¼, S½ SE¼;
Sec. 32: All;
Sec. 34: NE¼, W½SW¼;
T. 2 S., R. 42 E., P.M.M.,
Sec. 2: Lots 1,2,3,4, S½N½, N½S½;
Sec. 4: Lots 1,2,3,4, S½N½, N½SE¼;
Sec. 6: Lots 1,2,3,4,5,6,7, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
T. 1 S., R. 42 E., P.M.M.,
Sec. 22: NE¼, S½;
Sec. 26: All;
Sec. 28: All;
Sec. 32: All;
Sec. 34: NE¼, NE¼NW¼, S½NW¼, S½;
T. 2 S., R. 43 E., P.M.M.,
Sec. 2: Lots 3, 4, SW¼NE¼, S½NW¼, S½;
Sec. 4: Lots 1, 2, 3, 4, S½N½, N½SE¼, SE¼SE¼.

9,524.92 Acres, Rosebud County, Montana.

The recoverable coal resource of this tract is 97.3 million tons. In descending order, the minable coal seams are: Sawyer, Knobloch, and Rosebud.

Coal thickness in the Sawyer seam ranges from 11 to 27 feet and contributes 33.1 million tons of recoverable coal to the resource total. The Knobloch seam ranges in thickness from 10 to 25 feet and contributes approximately 50.1 millions tons. The Rosebud seam ranges from 11 to 15 feet in thickness and contributes 14.1 million tons to the total.

The quality of coal seams are as follows:

	Btu per pound	Sulfur (percent)	Ash (percent	H_2O (percent)
Rosebud	8,383	1.11	8.5	27.2
Knobloch	8,592	0.49	6.3	27.4
Sawyer	8,618	0.30	5.5	27.1

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tracts.

DATES: Comments must be received on or before April 6, 1984. In addition, notice is also given that a public hearing will be held April 5, 1984 at 7:00 p.m. at Miles City Community College, Room 106. The Bureau of Land Management is seeking public comment on the environmental assessment of the proposed leases as well as any nonproprietary data related to fair market value and/or maximum economic recovery that anyone may wish to present at that time.

ADDRESS: For more complete data on these tracts, please contact Jeanette Bejot (telephone 407–657–6875), Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

SUPPLEMENTARY INFORMATION: In accordance with Federal Coal Management regulations 43 CFR Part 3400, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

Comments should be sent to Bureau of Land Management, Economic Evaluation Section, 100 East "B" Street, Room B005, Casper, Wyoming 82601, Attention: Tim MacGillvrey (telephone 307–261–5735), and should address, but not necessarily be limited to the following information:

1. The quality and quantity of the coal resource;

2. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined and

the most desirable timing and rate of production;

3. The quantity of coal;

4. If this tract should be evaluated as part of a larger mining unit (i.e., a tract which does not in itself form a logical mining unit);

5. The configuration of any larger mining unit of which the tract may be a part;

6. Restrictions to mining which may affect coal recovery;

7. The price that the mined coal would bring in the market place;

8. Costs, including mining and reclamation, of producing the coal;

9. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given;

10. Depreciation and other accounting factors;

11. The value of any surface estate where held privately;

12. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and

13. Any comparable sales data of similar coal lands.

The values given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

Copies of the Squirrel Creek Environmental Assessment covering noncompetitive lease proposal areas M 56925 and M 56927 and the Greenleaf-Miller Creek Environmental Assessment covering the proposed noncompetitive lease area M 56926 may be obtained from Richard Zander, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301, (telephone 406–232–4331).

Kannon Richards,

Acting State Director.

[FR Doc. 83-5566 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-DN-M

[NM 13413]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, Getty Oil Company petitioned for reinstatement of oil and gas lease NM 13413 covering the following described lands located in Eddy County, New Mexico:

T. 25 S., R. 28 E. NMPM
Sec. 11: SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 14: NW¼NE¼, S½NE¼, NW¼, SE¼;
Sec. 23: N½.
Containing 1,000.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at rate of 16⅔ percent. Reimbursement for the cost of publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, April 1, 1981.

Dated: February 23, 1984.

Monte G. Jordan,

Associate State Director.

[FR Doc. 84-5708 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-FB-M

Realty Action; Idaho; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–19676, Competitive Sale of Public Lands in Cassia County, Idaho. Correction.

SUMMARY: This document corrects a Notice of Realty Action (NORA) that appeared on page 4157 in the **Federal Register** of Thursday, February 2, 1984 (49 FR 4157).

The publication notice incorrectly listed patent reservation number 3 as:

3. All mineral rights are reserved to the United States pursuant to 43 CFR 2711.5–1.

This reservation is corrected to read:

3. Oil and gas and geothermal rights will be reserved to the United States pursuant to 43 CFR 2711.5–1.

Dated: February 21, 1984.

John S. Davis,

District Manager.

[FR Doc. 84-5653 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-GG-M

Realty Action—Sale; Public Land in Gilliam County, Oregon

In FR Doc. 84–1389 in the issue of Thursday, January 19, 1984, appearing on page 2317, column 2 immediately preceding the paragraph which is numbered 2, the following should be inserted:

The successful bidder will be required to pay one-fifth the full sale price together with the $50.00 non-refundable filing fee for the conveyance of minerals immediately at the close of the sale and the remainder within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned within 30 days of the sale date.

Bids must be made by the principal or his duly qualified agent by sealed bid, must be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. ——, Serial No. OR 36615, Sale held March 21, 1984."

The terms and conditions applicable to the sale are:

1. The apparent high bidder shall submit the remainder of the full bid price within 30 days from receipt of notice of acceptance. Failure to submit the full bid price within 30 days from receipt of notice of acceptance shall result in sale cancellation of the specific parcel and the deposit shall be forfeited.

James L. Hancock,

Associate District Manager.

[FR Doc. 84-5661 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-19854 (WASH)]

Washington; Order Providing for Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By Power Site Cancellation No. 93 of March 28, 1949, the U.S. Geological Survey partially cancelled Power Site Classification No. 349, affecting approximately 1,079.77 acres of land. This action will open 1,039.57 acres to surface entry. The balance of 40.20 acres has been conveyed out of Federal ownership.

EFFECTIVE DATE: April 10, 1984.

ADDRESS: Inquiries concerning the lands should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon, State Office 503–231–6905.

1. By Power Site Cancellation No. 93 of March 28, 1949, the United States Geological Survey cancelled a portion of the land withdrawal for Power Site Classification No. 349 of June 22, 1944, as to the following described land:

Willamette Meridian, Washington

T. 27 N., R. 23 E.,
Sec. 1, lot 4 and SW¼NW¼;
Sec. 2, lot 1, SE¼NE¼, NE¼SE¼, and SW¼SE¼;
Sec. 3, lot 1;
Sec. 8, N½NE½, SW¼NE½, E½SW¼, and NW¼SE¼;
Sec. 11, SE¼NW¼;
Sec. 21, SE¼SW¼;
Sec. 28, E½NW¼SW¼NW¼, and W½SW¼;
Sec. 30, lots 3 and 4;
Sec. 32, NE¼NE¼, S½NE¼, and N½SE¼.

The area described contains 1079.77 acres in Chelan and Douglas Counties.

2. The State of Washington has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. Lot 1 of sec. 3, T. 27 N., R. 23 E., has been conveyed out of Federal ownership and will not be open to operation of the public land laws.

4. At 8:30 a.m., on April 10, 1984, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1, except as provided in paragraph 3, will be open to operation of the public land laws generally. The lands have been and remain open to operation of the mining laws and mineral leasing laws.

Dated: February 24, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-5659 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Availability of the Fish and Wildlife Service's National Environmental Policy Act Handbook

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Fish and Wildlife Service's (FWS's) National Environmental Policy Act (NEPA) Handbook is available to the public. This Handbook revises updates, combines, and replaces the FWS's NEPA Planning and Documentation and FWS's Interagency Coordination Handbooks dated November 14, 1980. The basic FWS policies for NEPA implementation remain unchanged. The Handbook is available for inspection at the Department of the Interior's Library, 18th and C Streets, NW., Washington, D.C. 20240 and at 1375 K Street, NW., Room 402, Washington, D.C. 20005. Single copies are available from the information contact given below.

FOR FURTHER INFORMATION CONTACT: Mr. Columbus Brown, Chief, Division of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202-343-5685).

Dated: February 24, 1984.

Robert A. Jantzen,

Director.

[FR Doc. 84-5655 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-07-M

Mineral Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2834, Block 238, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on February 23, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing pactices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 23, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-5654 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Drilling an Exploratory Well No. 1; Petrus Operating Company, Inc., Padre Island National Seashore Texas

Notice is hereby given in accordance with Part 9, § 9.52(b), of Title 36 of the Code of Federal Regulations that the National Park Service has received from Petrus Operating Company, Inc., a Plan of Operations for the purpose of drilling an Exploratory Well No. 1 within the Laguna Madre Area, State Tract 229, Padre Island National Seashore, Kenedy County, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $5.60 per copy, pursuant to the Freedom of Information Act. The document is 56 pages in length.

Dated: February 27, 1984.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 84-5617 Filed 3-1-84; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF INTERIOR

Gulf Islands National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Gulf Islands National Seashore Advisory Commission will be held at 1:00 p.m. on Wednesday, April 4, 1984, at the Gulf Islands National Seashore Davis Bayou Visitor Center, Ocean Springs, Mississippi.

The purpose of the Gulf Islands National Seashore Advisory Commission is to consult and advise

with the Secretary of the Interior or his designee on matters of planning and development of Gulf Islands National Seashore

The members of the Advisory Commission are as follows:

Mrs. Courtney Blossman, Chairman (Mississippi)
Mr. Gordon D. Allen (Mississippi)
Ms. Margaret Allen (Mississippi)
Mr. Sherman Barnes (Florida)
Mr. J. Earle Bowden (Florida)
Mr. George Byars (Mississippi)
Mr. Lloyd J. Caillavet (Mississippi)
Mr. Edwin Cake, Jr. (Mississippi)
Mr. Bill Davis (Mississippi)
Mr. Paul Delcambre (Mississippi)
Ms. Betty Gerritz (Florida)
Mr. Leewynn Hodges (Mississippi)
Mr. R. K. Hollister (Mississippi)
Mrs. M. G. Kennedy (Florida)
Mr. Charles Liberis (Florida)
Ms. Sara McGehee (Mississippi)
Mr. Michael Mitchell (Florida)
Mr. Grady Don Pope (Florida)
Ms. Diana Rittenhouse (Florida)
Mr. Roger T. Robinson (Florida)
Mr. Richard Schmidt (Mississippi)
Mr. Vince Whibbs (Florida)
Ms. Erica Wolley (Florida)

The matters to be discussed at this meeting will be the 150th Anniversary Celebration of Fort Pickens and the Preservation of Battery Pensacola. The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matter to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Frank D. Pridemore, Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561, telephone (904) 932–6316. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: February 24, 1984.

Bob Baker,

Regional Director, Southeast Region.

[FR Doc. 84–5764 Filed 3–1–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the Advisory Committee on Voluntary Foreign Aid (ACVFA) which will be held March 15, 1984 (8:30 a.m. to 5:00 p.m.) and March 16, 1984 (9:00 a.m. to 12:30 p.m.) in the Loy Henderson International Conference Room, Department of State, Washington, D.C. To enter, please use C Street (Diplomatic Entrance) between 21st and 23rd Sts., NW, Washington, D.C.

On Thursday, March 15, 1984, at 8:30 a.m.: Registration and Logistics Information; 9:00 a.m., Introductory Remarks by the ACVFA Chairman: 9:15 a.m., a plenary session will be held on the *Report of the National Bipartisan Commission on Central America* (Kissinger Commission). Dr. William B. Walsh, ACVFA member and member of the Commission, will give an overview of the Report, followed by a panel, chaired by David Guyer, ACVFA member, and President, Save the Children Federation, to provide discussion of the Report, and allow for questions and answers.

At 12:00 Noon, a luncheon with guest speaker, will be held in the Benjamin Franklin Diplomatic Reception Room, Department of State, and is open to the public. *Prepaid reservations are required.* Those interested in attending the luncheon, please call Wilhelmina Taylor, (202) 789–5220.

At 2:00 p.m., a plenary session will be held on the *Report of the Commission on Security and Economic Assistance* (Carlucci Commission), with an overview by a member of the Commission, Wallace J. Campbell, followed by a panel discussion, chaired by ACVFA member, Steven Stockmeyer, and a period for questions and answers.

On March 16, 1984, the meeting will be devoted to subcommittee meetings and a business meeting of the ACVFA. Meeting concurrently from (9:00 a.m. to 10:45 a.m.: Food for Peace, Women in Development, Development Education, and PVO Corporate Relations. A business session will be held from 11:00 a.m. to 12:30 p.m., which will conclude the meeting.

The meeting is open to the public. Any interested person may attend, request to appear before, or file statements with the Advisory Committee, in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in thrity (30) copies.

Persons not registered and wishing to attend the ACVFA meeting, must contact Wilhelmina Taylor, (202) 789–5220, NLT March 10, 1984, to arrange entrance to the State Department Building.

There will be AID representatives at the meeting. Those desiring further information may call (703) 235–2708, or contact by mail, the Advisory Committee on Voluntary Foreign Aid, Room 227, SA–8, Agency for International Development, Washington, D.C., 20523.

Dated: February 23, 1984.

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 84–5734 Filed 3–1–84; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 (Sub-186)]

Burlington Northern Railroad Co.—Abandonment—in Kootenai County, ID; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 2.73 mile rail line between milepost 9.76 near Atlas and milepost 12.43 near Coeur d'Alene in Kootenai County, ID. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: **Rail Section, AB–OFA."** Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–5695 Filed 3–1–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-38X)]

Missouri Pacific Railroad Co.—Abandonment—in Union County, AR; Exemption

Missouri Pacific Railroad Company (applicant) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is the Huttig

Subdivision extending between milepost 495.7, near El Dorado and milepost 526.9, near Huttig, a distance of 31.2 miles in Union County, AR.

Applicant has certified: (1) That no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line or by a State or local governmental entity acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Arkansas has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on April 1, 1984, (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by March 12, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by March 22, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: February 22, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-5098 Filed 3-1-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-68X)]

Baltimore and Ohio Railroad Co.—Abandonment—in Preston County, WV; Exemption

The Baltimore and Ohio Railroad Company (applicant) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is a portion of applicant's Kingwood Subdivision between milepost 14.29 at or near Albright and milepost 19.00 at or near Kingwood, a distance of about 4.7 miles, in Preston County, WV.

Applicant has certified: (1) That no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line or by a state or local governmental agency acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in West Virginia has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C 885 (1983).

As a condition to use of the exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C 91 (1979).

The exemption will be effective on April 1, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by March 12, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed March 22, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: February 22, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James J. Bayne,

Acting Secretary.

[FR Doc. 84-5099 Filed 3-1-84; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-70]

Union Pacific Railroad Co.; Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks at Dunsmuir, California, are temporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Bieber, and Sacramento, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Bieber, California, and a connection with Southern Pacific Transportation Company (SP) at Sacramento, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provision of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 1:10 a.m., EST, February 14, 1984.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., PST, February 15, 1984, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 14, 1984.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 84-5700 Filed 3-1-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment Standards Administration
Information on Earnings Form
Annually
38,000 responses; 12,667 hours, 1 form

Form is used to obtain information from claimants receiving continuing compensation on the Division of Federal Employees' Compensation's (DFEC) periodic disability roll. This information is necessary to ensure that the compensation being paid is correct.

Revision

Employment Standards Administration
Lower Back Pain Form
CA-28a, CA-28b
Other—as needed
Small Businesses or Organizations
1,000 responses, 750 hours, 2 forms

Form CA-28 is used in claimant cases under the FECA involving claims concerning low back pain.

Extension

Mine Safety and Health Administration
Ground Control Plan
1219-0026; MSHA-202
On occasion
760 respondents; 30,400 hours
Businesses and other for profit; small businesses or organizations

Requires operators of surface coal mines to establish and follow a ground control plan which is consistent with prudent engineering design. Plans are primarily used by the operator to insure safe control of highwalls and soil banks.

Signed at Washington, D.C. this 28th day of February 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84-5768 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-27-M

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy

Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: March 13, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Acting Executive Secretary, Labor Advisory Committee. Phone: (202) 523-6565, February 24, 1984.

Signed at Washington, D.C. this 24th day of February 1984.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 84-5769 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 20, 1984-February 24, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subsivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,721; Fab Tec Co., Warren, MI
TA-W-14,957; General Electric Co., Bellevue Lamp Plant, Bellevue, OH
TA-W-14,833; Easton Corp., Engineered Fasteners Div., Tinnerman Plant, Cleveland, OH
TA-W-14,719; Aetna-Standard Engineering Co., Ellwood City, PA
TA-W-14,922; Cascade Corp., Springfield, OH
TA-W-14,838; Jackson China, Inc., Falls Creek, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,891; Sharwell Manufacturing Co., Inc., Williampsport, PA
TA-W-14,924; Clark Equipment Co., Buchanan, MI
TA-W-14,909; Leesona Corp., Textile Machinery Div., Warwick, RI

In the following case the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,997; Southern Stone Co., Inc., Dolonah Quarry, Bessemer, AL

Aggreagate U.S. imports of limestone are negligible.

Affirmative Determinations

TA-W-14,899; Loose Leaf Hardware, Inc., West Memphis, AR

A certification was issued covering all workers separated on or after August 1, 1982 and before November 1, 1983.

TA-W-14,886; Chic-De-Paris Handbag Corp., New York, NY

A certification was issued covering all workers separated on or after July 21, 1982 and before July 15, 1983.

TA-W-14,965; Muench-Kreuzer Candle Co., Syracuse, NY

A certification was issued covering all workers separated on or after January 1, 1983.

TA-W-15,005; Phillips Chemical Co., Rubber Chemical Complex & Rubber Pilot Plant, Borger, TX

A certification was issued covering all workers separated on or after September 9, 1982 and before December 31, 1982.

TA-W-14,904; Twin Manufacturing Co., Bayshore, NY

A certification was issued covering all workers separated on or after November 1, 1982.

TA-W-14,990; CGR Medical Corp., Baltimore, MD

A certification was issued covering all workers separated on or after June 1, 1983.

TA-W-14,989; Wolverine Glove Co. Noxapater, MS

A certification was issued covering all workers separated on or after January 1, 1983 and before October 1, 1983.

TA-W-14,987; U.S. Steel Corp., U.S.S. Fabrication Div., Elmira Heights, NY

A certification was issued covering all workers separated on or after August 30, 1982.

TA-W-15,009; AMP Delmed Dialysis Group, Freehold, NJ

A certification was issued covering all workers separated on or after February 1, 1983 and before January 1, 1984.

TA-W-14,844; Keller Glove Manufacturing Co., Belmont Manufacturing Co. Div., Martins Ferry, OH

A certification was issued covering all workers separated on or after October 1, 1982.

TA-W-14,844A; Keller Glove Manufacturing Co., Plumsteadville, PA

A certification was issued covering all workers separated on or after October 1, 1982.

TA-W-14,830; Fellows Corp., Springfield, VT

A certification was issued covering all workers engaged in employment related to the production of gear making machinery separated on or after January 1, 1983.

TA-W-14,722; Lamb Technicon Corp., Warren , MI

A certification was issued covering all workers separated on or after September 30, 1982.

TA-W-15,078; Lamb Technicon Corp., Marysville, MI

A certification was issued covering all workers separated on or after September 30, 1982.

TA-W-14,957; The Timken Co., Columbus, OH

A certification was issued covering all workers separated on or after August 19, 1982.

TA-W-15,008; American Enka Co., Polyester Filament Plant, Central, SC

A certification was issued covering all workers separated on or after September 14, 1982.

I hereby certify that the aforemented determinations were issued during the period February 20, 1984–February 24, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 28, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-5163 Filed 3-1-84; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 12, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 12, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 21st day of February 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amax Specialty Metals, Inc. (USWA)	Newwark, NJ	2/15/84	2/6/84	TA-W-15,214	Metal strip and round wire of various alloys.
Amax Specialty Metals, Inc. (USWA)	Florham Park, NJ	2/15/84	2/6/84	TA-W-15,215	Metal strip and round wire of various alloys.
Brockway, Inc. (N.Y.) (GPPAW)	Washington, PA	2/13/84	2/3/84	TA-W-15,216	Glass food containers.
Edison International Inc., d.b.a. Worthington Div., McGraw Edison Co. (USWA).	E. Orange, NJ	2/16/84	2/14/84	TA-W-15,217	Industrial pumps.
Griffith-Hope Co. (USWA)	West Allis, WI	2/16/84	2/9/84	TA-W-15,218	Paper dispensers—steel.
Inland Steel Mining Co., Minorca Mine (company)	Virginia, MN	2/14/84	2/9/84	TA-W-15,219	Iron ore pellets.
Inland Steel Mining Co., General Office (company)	Virginia, MN	2/14/84	2/9/84	TA-W-15,220	General office.
(The) Lima Electric Co., Inc. (company)	Lima, OH	2/13/84	2/8/84	TA-W-15,221	Commercial AC generators.
(The) Lima Electric Co., Inc. (company)	Greenville, AL	2/13/84	2/8/84	TA-W-15,222	Commercial AC generators.
(The) Ohio Knife Co. (USWA)	Cincinnati, OH	2/16/84	2/14/84	TA-W-15,223	Machine knives and ways.
Warren Tool Corp., Warren Tool Div. (USWA)	Warren, OH	2/16/84	2/14/84	TA-W-15,224	Heavy hand tools.

[FR Doc. 84-5782 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,782]

Potash Company of America Carlsbad, New Mexico; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

According to section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance on January 6, 1984 to workers of Potash Company of America under petition number TA-W-14,782. The Notice of Certification was published in the **Federal Register** on January 13, 1984 (48 FR 1800).

Based on additional information furnished to the Office of Trade Adjustment Assistance on separation of Potash Company of America workers engaged in employment related to the production of potash (potassium) at the Carlsbad, New Mexico facility, one day prior to the impact date, the Department is amending the certification to cover the additional separated workers by changing the January 1, 1983 impact date to December 31, 1982.

The amended certification for TA-W-14,782 is hereby issued as follows:

"All workers of Potash Company of America, Carlsbad, New Mexico who became totally or partially separated from employment on or after December 31, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 22nd day of February 1984.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 84-5761 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-10; Exemption Application No. D-3328 et al.]

Grant of Individual Exemptions; the Alaska Teamsters Employer Pension Trust et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 84–10; Exemption Application No. D–3328]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to Central Office Building, Ltd. (COB) and Thomas J. and Helen B. Miklautsch by reason of the Plan's participation in a mortgage loan originated on September 8, 1976 by Washington Mortgage Co., Inc., to COB, and by reason of the assignment to the Plan of certain leases with Thomas Miklautsch and related parties as security for the loan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 958.

Effective Date: This exemption is effective September 8, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to COB and Thomas J. and Helen B. Miklautsch. Thus, these parties will be relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Electrical Pension Trust (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 84–11; Exemption Application No. D–3380]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to Skoglund Company, Inc. (SCI) and Mr. and Mrs. Paul K. Skoglund (the Skoglunds) by reason of the Plan's participation in a mortgage loan originated by Alsaka Pacific Bank to the Skoglunds for the period beginning March 17, 1977 through September 27, 1979.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 959.

Effective Dates: This exemption is effective from March 17, 1977 through September 27, 1979.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to SCI and the Skoglunds. Thus, these parties will be relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Tri-State Optical, Inc. Profit Sharing Plan (the Plan) Located in Fort Wayne, Indiana

[Prohibited Transaction Exemption 84–12; Exemption Application No. D–4531

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to: (1) The proposed purchase of a building (the Building) by the Plan from Fort Wayne National Bank as Trustee of the Betty Pollak Trust, a party unrelated to the Plan, provided that the purchase price is not more than the fair market value of the Building on the date of sale; and (2) the proposed lease of the Building to Tri-State Optical, Inc., a party in interest with respect to the Plan, provided that the terms and conditions of the lease are at least as favorable to the Plan as those obtainable from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 962.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Omar Associates, Inc. Defined Benefit Pension Plan (the Plan) Located in Livonia, Michigan

[Prohibited Transaction Exemption 84–13; Exemption Application No. D–4543]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the December 31, 1983 contribution of a parcel of real property located at Lot 128 in the Southbay Yacht and Racquet Club, Sarasota, Florida (the Property) by Omar Associates, Inc. (the Employer) to the Plan, provided that: (1) The Employer's federal tax deduction for the contribution of the Property to the Plan is not greater than the Employer's equity in the Property on the date of contribution; and (2) the contribution is valued at its fair market value by the Plan on the date of contribution.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 6, 1984 at 49 FR 963.

Effective Date: This exemption is effective December 31, 1983.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary

responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 28th day of February, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84-5774 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-4820 et al.]

Proposed Exemptions; Kinzel, Acheson & Cowan, Inc., P.S. Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Kinzel, Acheson & Cowan, Inc. P.S. Profit Sharing Plan (the Plan) Located in Bellevue, Washington

[Application No. D-4820]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the case sale of a certain parcel of unimproved real property by the Plan to Mr. William L. Kinzel (Mr. Kinzel), a party in interest with respect to the Plan, provided the price paid to the Plan is no less than the fair market value of the property on the date of sale and further provided that the net cash proceeds to the Plan are at least equal to the Plan's cash outlay for the property to the date of sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan that had six participants and total assets of approximately $300,131 as of September 30, 1983. The Plan's trustees are Messrs. William L. Kinzel, Douglas L. Cowan, and Edmund P. Allen. Kinzel, Cowan & Allen, Inc., P.S. (formerly Kinzel, Acheson & Cowan, Inc. P.S.), the Plan's sponsor, is a professional law corporation located in Seattle, Washington.

2. On July 9, 1976, the Trustees purchased a parcel of unimproved real property (the Property) located in Mason County, Washington, from Richard H. Gardner and his wife, Yvonne L. Gardner, unrelated parties with respect to the Plan. The Plan paid $41,000 for the Property, with an initial downpayment of $12,603.99 in cash and assumed an underlying real estate contract (the Contract) in the amount of $28,496.01. The Contract was held by John C. James and his wife Margaret M. James (the Lienholders). It is represented that the Lienholders are not related to the Employer, or to any of the Trustees. As of September 26, 1983, the Contract's outstanding balance was $20,317.37.

3. The applicant represents that the Property has been and continues to be non-income producing. As of October 21, 1983, the Plan's cash outlay (downpayment, interest, amortization of principal, taxes and improvements) for the Property amounted to approximately $43,174.59. The improvements made total approximately $4,700 and consist of electrical and pole service charges and well drilling and pump installation charges. The applicant states that the Plan does not have the financial resources nor the ability with which to develop the Property, nor does it wish to engage in such activity. The Plan's trustees, therefore, propose to sell the

Property to Mr. Kinzel, for a price equal to the fair market value of the Property provided that the case received by the Plan is at least equal to its cash outlay for the Property to the date of sale.

4. It is represented that the Lienholders will agree to the substitution of the proposed purchaser, Mr. Kinzel, as the obligor under the Contract. No sales commissions will be paid by the Plan with respect to the proposed sale. An appraisal performed by Rick Westman, Associate Appraiser of Yerkes & Associates, Kirkland, Washington, on June 3, 1983, valued the Property at $60,000.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (a) the Plan's trustees have determined that the transaction is in the best interests of the Plan's participants and beneficiaries; (b) it is a one time transaction for cash; (c) the sale will allow the Plan to divest itself of a non-income producing asset; and (d) the sales price will be the fair market value of the Property provided that the cash proceeds received by the Plan are at least equal to its cash outlay for the Property to the date of sale.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Greenwood Medical Laboratory, Inc. Retirement Trust (the Plan) Located in Greenwood, Indiana

[Application No. D–4937]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain real property (the Property) to Mr. Robert J. Lessard (Mr. Lessard), the trustee of the Plan and a party in interest with respect to the Plan, for cash in the amount of $25,000, provided that such amount is not less than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan which had three participants and net assets of approximately $332,878 as of November 1, 1983. The trustee of the Plan and decision maker with respect to Plan investments is Mr. Lessard. Among the assets of the Plan is the Property, a parcel of undeveloped real estate at located 864 North Madison Avenue, Greenwood, Indiana.

2. The Property was purchased by the Plan from unrelated parties in September, 1981, for a purchase price of $21,500, which was paid by the Plan in chas. Since the purchase of the Property, the Plan has incurred expenses of $1,113.77 for the demolition of a structure on the Property, taxes, and maintenance. The Plan's total investment in the Property, therefore, as of November 21, 1983, was $22,613.77. Mr. Lessard states that, as trustee of the Plan, he caused the Plan to purchase the Property because it was believed that the Property and an adjoining parcel would be purchased within the next two years by a local bank for a new branch office, thereby increasing the value of the Property substantially in a very short time. When the bank subsequently purchased the adjoining parcel but not the Property, the hoped for invesment return did not materialize. The Property is currently not producing income for the Plan. Mr. Lessard now believes that it is in the best interest of the Plan to sell the Property and reinvest the proceeds in assets providing greater liquidity and a positive rate of return.

3. The Property was appraised on May 16, 1983, by Mr. Reily A. Burrell (Mr. Burrell), an M.A.I. appraiser with Burrell Appraisal Service, Inc., Indianapolis, Indiana. Mr. Burrell and Burrell Appraisal Service, Inc. have no ongoing commercial relationships with Mr. Lessard. Mr. Burrell represents that the fair market value of the Property on May 16, 1983 was $25,000.

4. Mr. Lessard has offered to purchase the Property from the Plan for cash in the amount of $25,000, provided that such amount is not less than fair market value of the Property on the date of sale. If the Property is not sold by the Plan, Mr. Lessard states that is is not likely to produce a rate of return for the Plan which is as high as that which could be produced by other, more liquid investments. No fees or commissions will be paid by the Plan with respect to the sale.

5. In summary, the applicant states that the proposed sale satisfies the exemption criteria provided by section 408(a) of the Act because: (a) The sale will be a one time transaction for cash; (b) the sale price will be the fair market value of the Property as determined by a qualified, independent appraiser; (c) the Plan will pay no fees or commissions with respect to the sale of Property; (d) the proposed sale will enable the Plan to dispose of a non-income producing asset representing approximately 7.5 percent of the Plan's current assets and to reinvest the proceeds of the sale in more liquid investments; and (e) Mr. Lessard, as the trustee of the Plan, states that the proposed sale is in the best interest of the Plan's participants and beneficiaries.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Drs. Wolfe, Vore & Caron, P.C. Profit Sharing Plan and Trust (the Plan) Located in Milwaukie, Oregon

[Application No. D–5021]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the December 30, 1974 loan of $87,000 by the Plan to a partnership (the Partnership) comprised of Gordon F. Wolfe, M.D., J. Victor Vore, M.D., and Gordon A. Caron, M.D., under the terms described in this notice of proposed exemption, provided such terms were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction.

Effective Dates: If the proposed exemption is granted, it will be effective from January 1, 1975 through June 30, 1983.

SUMMARY OF FACTS AND REPRESENTATIONS

1. The Plan is a profit sharing plan with 5 participants. Drs. Wolfe, Vore & Caron, P.C. (the Employer) is a professional corporation providing medical services in Milwaukie, Oregon. The Employer is owned in equal shares by Drs. Gordon Wolfe, J. Victor Vore and Gordon Caron, who also each own a ⅓ interest in the Partnership.

2. On December 30, 1974, the Plan loaned $87,000 to the Partnership. The loan was evidenced by a note which provided for repayment in monthly installments of $1,142.69, with interest at the annual rate of 12%. The note was

secured by a mortgage on a building (the Building) owned by the Partnership which was located on land owned by the Plan. The land had been acquired by the Plan on December 26, 1972. The Plan entered into a lease of the land to the Employer effective January 1, 1973. The land was sold by the Plan on April 1, 1982 to the Partnership for $67,500 in cash. The sales price was determined by an appraisal performed by A. L. Calcagno of Century 21 Peninsula Realty, Inc.[1]

3. The applicants represent that the terms of the loan were arm's-length terms. According to Mr. Bill Ruzicka, Administrative Services Officer of the United States National Bank in Portland, Oregon, the prevailing interest rate for new loans similar to the subject loan ranged from 11.75 percent to 12.25 percent per annum at the end of 1974.

4. The applicants represent that the loan was adequately secured. Mr. James H. MacKenzie, an independent real estate appraiser in Portland, Oregon, represents that the Building had an estimated fair market value of $102,500 as of November 1, 1974.

5. If paid according to its terms, the note would have been fully repaid on January 1, 1986. However, the Partnership repaid the loan in full to the Plan on June 30, 1983. All payments throughout the duration of the loan had been made in timely fashion.

6. In summary, the applicants represent that the subject transaction met the statutory criteria contained in section 408(a) of the Act because: (1) The terms of the transaction were comparable to those required at the time by a third party financial institution for a similar loan; (2) the loan was adequately secured by property appraised by an independent appraiser as having a fair market value substantially greater than the amount of the loan; and (3) all loan payments were made on schedule, and the loan has now been repaid in full to the Plan.

Finally, the applicants represent that the loan was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicants realized that the loan had become a prohibited transaction, the applicants submitted a good faith request for an exemption.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 28th day of February 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84-5775 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-29-M

[1] The applicants represent that the lease of the land by the Plan to the Employer and the sale of the land by the Plan to the Partnership were covered by sections 414(c)(2) and (c)(3) of the Act, respectively. The Department takes no position in this proposed exemption as to whether the lease and sale were exempt by reason of sections 414(c)(2) and (c)(3) of the Act.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Companies Section) to the National Council on the Arts will be held on March 21-25, 1984, from 9:00 a.m.-6:00 p.m. in Room MO-7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 25, 1984, from 4:00-6:00 p.m. to discuss Policy issues.

The remaining sessions of this meeting on March 21-24, from 9:00 a.m.-6:00 p.m. and on March 25, from 9:00 a.m.-4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Councils and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-5731 Filed 3-1-84; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Ecosystem Studies; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science

Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and time: March 22 and 23, 1984—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert G. Woodmansee, Program Director, Ecosystem Studies (202) 357–9596, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenca: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: February 28, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–5735 Filed 3–1–84; 8:45 am]

BILLING CODE 7555–01–M

Committee Management, National Science Foundation Advisory Council; Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the National Science Foundation Advisory Council is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, as required by the Federal Advisory Committee Act and other applicable regulations.

Authority for the Advisory Council shall expire on March 8, 1986, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Edward A. Knapp,

Director.

[FR Doc. 84–5725 Filed 3–1–84; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Notice of Extension

The Foundation is restructuring its advisory committees by separately chartering previously unchartered subcommittees. All necessary paperwork is now with the GSA Committee Management Secretariat. Pending review by GSA, the following committees are being extended until March 30, 1984.

Advisory Committee for Astronomical Sciences
Advisory Committee for Atmospheric Sciences
Advisory Panel for Behavioral and Neural Sciences
Advisory Panel for Biotic Systems
Advisory Committee for Chemistry
Advisory Committee for Earth Sciences
Advisory Committee for Engineering
Advisory Committee for Industrial Science and Technological Innovation
Advisory Committee for International Programs
Advisory Committee for Materials Research
Advisory Committee for Mathematical and Computer Sciences
Advisory Committee for Ocean Sciences
Advisory Committee for Physics
Advisory Panel for Physiology, Cellular, and Molecular Biology
Advisory Committee for Polar Programs
Advisory Committee for Policy Research and Analysis and Science Resources Studies
Advisory Panel for Social and Economic Science

Jeff Fenstermacher,

Committee Management Officer.

[FR Doc. 84–5726 Filed 3–1–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physics, Subcommittee for Review of the NSF Theoretical Physics Program; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Theoretical Physics Program.

Date and time: March 19–20, 1984; 9:00 a.m. to 5:00 p.m., each day.

Place: Room 341, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Marcel Bardon, Director, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7985.

Purpose of subcommittee: To provide oversight concerning NSF support and planning for research in theoretical physics.

Agenda: To review NSF Theoretical Physics Program documentation as part of the program oversight function.

Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: February 28, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–5724 Filed 3–1–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Behavioral and Neural Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences—Subpanel for Anthropology (Physical-Archaeology).

Date and time: March 19 to 21, 1984, 8:30 a.m.–6:00 p.m.

Place: National Science Foundation, 1800 G St. NW., Room 338 (19, 20) and 628 (21), Washington, D.C. 2050.

Type of meeting: Closed.

Contact person: Dr. John E. Yellen, Program Director for Anthropology Room 320, National Science Foundation, Washington, DC 20550 (202) 357–7840.

Purpose of subpanel: To provide advice and recommendations concerning support for research in archaeology and physical anthorpology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries,

and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: February 28, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-5727 Filed 3-1-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities for Materials

Correction

In FR Doc. 84-3955 appearing on page 5705 in the issue of Tuesday, February 14, 1984, make the following correction: In column one of the table, entry seven, "XSNM02113" should read "XSNM01913".

BILLING CODE 1505-01-M

[Docket No. 50-261]

Carolina Power and Light Co. (H. B. Robinson Steam Electric Plant, Unit No. 2); Order Confirming Licensee Commitments on Emergency Response Capability

I

Carolina Power and Light Company (CP&L or the licensee) is the holder of Operating License No. DPR-23 which authorizes the operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) at steady-state power levels not in excess of 2300 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Darlington South Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

CP&L responded to Generic Letter 82-33 by letter dated April 15, 1983. By letter dated August 24, 1983, CP&L modified several dates as a result of negotiations with the NRC staff. In these submittals, CP&L made commitments to complete the basic requirements. The attached Table summarizing CP&L's schedular commitments or status that was developed by the NRC staff from the Generic Letter and the information provided by CP&L.

CP&L's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed CP&L's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. As a result of these negotiations, the licensee modified certain dates by letter dated August 24, 1983. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of CP&L's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensees shall: Implement the specific items described in the Attachment to this order in the manner described in CP&L's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensees may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensees should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 21st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT I TO NUREG-0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Dec. 1984.
	1b. SPDS fully operational and operators trained	Schedule to be provided in Dec. 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Dec. 1984.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Schedule to be provided in Dec. 1984.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	Dec. 1984.
	3b. Implement (installation or upgrade) requirements	Schedule to be provided in Dec. 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	2 mos after final information is received by CP&L from the Owners Group (approximate date Mar. 1984).
	4b. Implement the upgraded EOPs	By end of steam generator repair outage scheduled to begin in June 1984.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Fully functional date to be provided in Dec. 1984.[1]
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Fully functional date to be provided in Dec. 1984.[1]

[1] The licensee's letter of Apr. 15, 1983, provided major milestones for building completion, however, the fully operational date cannot be determined until the operational dates of items above can be established such as 1 and 3.

[FR Doc. 84-5944 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413-OL and 50-414-OL; ASLBP No. 81-463-06A OL]

Duke Power Co., et al.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, and pursuant to the Statement of Policy on Conduct of Licensing Proceedings, 13 N.R.C. 452 (1981), and upon consideration of the February 21, 1984 Order of the Atomic Safety and Licensing Board already established in this operating license proceeding, a separate Atomic Safety and Licensing Board is being established to preside over all emergency planning issues.

Duke Power Company, et al.

Catawba Nuclear Station, Unit Nos. 1 and 2 (Emergency Planning)

Construction Permit Nos. CPPR-116 and CPPR-117

This Board is being constituted pursuant to a notice published by the Commission on June 25, 1981, in the Federal Register (46 FR 32974ff) entitled, "Notice of Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Notice of Opportunity for Hearing."

The Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Robert M. Lazo, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Frank F. Hooper, University of Michigan, School of Natural Resources, Ann Arbor, Michigan 48109

Issued at Bethesda, Maryland, this 27th day of February 1984.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84-5745 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Company; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments would revise the technical specifications including changes in operating limits related to the transition to the use of optimized fuel assemblies and changes related to the boron injection system and control rod insertion limits. McGuire Units 1 and 2 have been operating with Westinghouse 17×17 (STD) fueled cores. It is proposed to refuel both Units 1 and 2 with Westinghouse 17×17 Optimized Fuel Assembly (OFA) regions. The major differences are the use of six intermediate (mixing vane) Zircaloy grids for the OFA fuel versus six intermediate (mixing vane) Inconel grids for STD fuel and a reduction in fuel rod diameter. As a result, future core loadings would range from an approximately ⅓ OFA-⅔ STD transition core to eventually an all OFA fueled core. The OFA fuel has similar design features compared to the STD fuel which has had substantial operating experience in a number of nuclear plants. Major advantages for utilizing the OFA are: (1) Increased efficiency of the core by reducing the amount of parasitic material and (2) reduced fuel cycle costs due to an optimization of water to uranium ratio.

Regarding the deletion of boron injection system Technical Specification ¾.5.4 for Unit 1, the proposed amendments would delete the Technical Specification requirements related to the boron injection system for Unit 1 as a result of bypass piping being installed around the boron injection tank.

In the matter of revised control rod insertion limits Technical Specification change, the proposed amendments would revise Technical Specification rod insertion limits for Units 1 and 2 as a result of hardware limitations and use of an appropriate conversion correlation. These amendments were requested in the licensee's application for amendments dated December 12, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment

request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The McGuire Unit 1/Cycle 2 reload safety evaluation describes all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload for the Unit 1 Cycle 2 design. The results of evaluation/analysis conclude that:

a. The Westinghouse OFA reload fuel assemblies for McGuire 1 and 2 are mechanically compatible with the current STD design, control rods, and reactor internals interfaces. Both fuel assemblies satisfy the current design bases for the McGuire units.

b. Changes in the nuclear characteristics due to the transition from STD to OFA fuel will be within the range normally seen from cycle to cycle due to fuel management effects.

c. The reload OFAs are hydraulically compatible with the current STD design.

d. The accident analyses for the OFA transition core were shown to provide acceptable results by meeting the applicable criteria, such as, minimum DNBR, peak pressure, and peak clad temperature, as required. The previously reviewed and licensed safety limits are met.

e. Plant operating limitations given in the Technical Specifications will be satisfied with the proposed changes.

From these evaluations, it is concluded that the Unit 1 Cycle 2 design does not cause the previously acceptable safety limits to be exceeded.

The Commission has provided examples of amendments likely to involve no significant hazards considerations (48 FR 14870). One example of this type is (vi), "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where results of the change are clearly within all acceptable criteria with respect to the system or component specified in the standard review plan: For example, a change resulting from application of a small refinement of a previously used calculational model or design method". Because the evaluations previously discussed show that all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload were reviewed for the Unit 1 Cycle 2 design and conclude that the reload design does not cause the previously acceptable safety limits to be exceeded, the above example can be applied to this situation.

A previously approved Technical Specification change reduced the required boron concentration in the boron injection tank (BIT) to between 2000 and 4000 ppm. Westinghouse analysis in support of that change concluded that reduction of the BIT's boron concentration does not have any adverse effect on safety of plant operation or the health and safety of the public. The analysis also allows for complete elimination of the BIT.

Because the BIT on Unit 1 currently performs no safety related function, this aspect of the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident, (2) create the possibility of a new or different kind of accident, or (3) involve a significant reduction in a safety margin.

Hardware limitations have resulted in the McGuire control rod overlap being changed from 50% (114 steps) to 49.6% (113 steps). In addition, an inappropriate correlation had been used when control rod insertion limits calculated in terms of fraction inserted were converted to steps withdrawn.

The revised rod insertion limits use the correct correlation, resulting in approximately 3 more steps of allowed D bank insertion. These revised limits were used throughout the McGuire safety analysis.

The Commission has provided examples of amendments likely to involve no significant hazards considerations (48 FR 14870). One example of this type is (vi), "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the standard review plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method". Because the change from a control rod overlap of 114 steps to 113 steps and correction of the correlation error can be considered as a small refinement of a previously used calculational model, and the change does not create the possibility of a new or different kind of accident from any accident previously evaluated, the above example can be applied to this situation. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By April 2, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the

Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washingotn, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 27th day of February 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84-5746 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Order Confirming Licensee Commitments on Emergency Response Capability

I

Florida Power Corporation (FPC or the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR–72, which authorizes the operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 2544 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Citrus County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter, operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of

emergency response activities including training.

III

FPC responded to Generic Letter 82–33 by letter dated April 15, 1983. By letter dated May 31, 1983, FPC modified several dates as a result of negotiations with the NRC staff. In these submittals, FPC made commitments to complete the basic requirements. The attached Table summarizing FPC's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by FPC.

FPC's commitments include (1) dates for providing required submittals to the NRC, and (2) dates for implementing certain requirements.

The NRC staff reviewed FPC's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these negotiations, the licensee modified certain dates by letter dated May 31, 1983. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the NRC requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of FPC's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall:

Implement the specific items described in the Attachment to this ORDER in the manner described in FPC's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 21st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Aug. 31, 1984.
	1b. SPDS fully operational and operators trained	July 1, 1985.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Complete.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Apr. 3, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	Aug. 21, 1984.
	3b. Implement (installation or upgrade) requirements	Feb. 28, 1986.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Complete.
	4b. Implement the upgraded EOPs	Complete.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Mar. 31, 1984.[1]
	5b. Operational Support Center fully functional	Complete.
	5c. Emergency Operations Facility fully functional	Mar. 31, 1984.[1]

[1] Except for SPDS and Reg. Guide 1.97 Instrumentation (See Items 1 and 3 above).

[FR Doc. 84–5747 Filed 3–1–84; 8:45 am]
BILLING CODE 7590–01–M

[Dockets Nos. 50–321 and 50–366]

Georgia Power Company, et al. (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Order Confirming Licensee Commitments on Emergency Response Capability

I

The Georgia Power Company (GPC or the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–57 and NPF–5 which authorize operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch or the facilities) at steady-state power levels not in excess of 2,436 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter, operating reactor licensees and holders of construction permits

were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

GPC responded to Generic Letter 82–33 by letter dated April 15, 1983, as supplemented by letter dated July 18, 1983. In these submittals, GPC made commitments to complete the basic requirements. The attached Table summarizing GPC's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by GPC.

GPC's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed GPC's April 15, 1983 and July 18, 1983 letters and entered into discussions with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these discussions, the NRC staff finds that the dates are reasonable, achievable dates for meeting the NRC requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of GPC's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this order in the manner described in GPC's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 21st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Completed.
	1b. SPDS fully operational and operators trained	June 30, 1986.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Oct. 31, 1984
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	June 30, 1986.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	Feb. 29, 1984.
	3b. Implement (installation or upgrade) requirements	(1).
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Sept. 30, 1984.
	4b. Implement the upgraded EOPs	Dec. 31, 1985.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	June 30, 1986.
	5b. Operational Support Center fully functional	Do.
	5c. Emergency Operations Facility fully functional	Do.

[1] Licensee will submit implementation schedule with its report describing how the requirements are to be met (requirement 3a).

[FR Doc. 84–5748 Filed 3–1–84; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order Confirming Licensee Commitments on Emergency Response Capability

I

Sacramento Municipal Utility District (the licensee) is the holder of Facility Operating License No. DPR–54 which authorizes the operation of the Rancho Seco Nuclear Generating Station (the facility) at steady-state power levels not in excess of 2,772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible

control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

Sacramento Municipal Utility District (SMUD) responded to Generic letter 82–33 by letter dated April 15, 1983. By letters dated July 20, 1983, and February 2, 1984, SMUD modified several dates as a result of negotiations with the NRC staff. In these submittals, SMUD made commitments to complete the basic requirements. The attached Table summarizing SMUD's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by SMUD.

SMUD's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff reviewed SMUD's April 15, 1983 letter and entered into negotiations with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG–0737. As a result of these negotiations, the licensee modified certain dates by letter dated July 20, 1983. In addition, by letter dated February 2, 1984, the licensee provided a schedule for supplying a revised upgraded Detailed Control Room Design Review Program Plan. The NRC staff finds that the modified dates are reasonable, achievable dates for meeting the NRC requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of SMUD's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Section 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 andf 50, It is hereby ordered, effective immediately, that the licensee shall: Implement the specific items described in the Attachment to this Order in the manner described in SMUD's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 21st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirement	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Completed.
	1b. SPDS fully operational and operators trained	Nov. 1984.[1]
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Apr. 30, 1984
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Dec. 31, 1985.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG–0737 have been or will be met.	July 15, 1884.
	3b. Implement (installation or upgrade) requirements	Detailed schedule, Sept. 15, 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Complete.
	4b. Implement the upgraded EOPs	Nov. 1984.[1]
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Nov. 1984.[1 2]
	5b. Operational Support Center fully functional	Nov. 1984.[1]
	5c. Emergency Operations Facility fully functional	Nov. 1984.[2]

[1] Where completion date refers to a refueling outage (the estimated date when the outage will begin), the item will be completed prior to restart of the facility.
[2] Except for Regulatory Guide 1.97 Instrumentation (See Item 3 above).

[FR Doc. 84–5749 Filed 3–1–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Company and the Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit No. 1); Order Confirming Licensee Commitments on Emergency Response Capability

I

The Toledo Edison Company (TED) and Cleveland Electric Illuminating Company (the licensees) are the holders of Facility Operating License No. NPF–3 which authorizes the operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) at steady-state power levels not in excess of 2,772 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Ottawa County, Ohio.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response

capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modifications, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter, operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

TED responded to Generic Letter 82–33 by letter dated April 15, 1983. By letter dated July 11, 1983, TED modified one date to reflect recent developments. In these submittals, TED made commitments to complete the basic requirements. The attached Table summarizing TED's schedular commitments or status was developed by the NRC staff from the Generic Letter and the information provided by TED.

TED's commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. These latter implementation dates will be reviewed, negotiated and confirmed by a subsequent order.

The NRC staff has reviewed TED's April 15, 1983 and July 11, 1983 letters and finds that the proposed dates are reasonable, achievable dates for meeting the NRC requirements. The NRC staff concludes that the schedule proposed by TED will provide timely upgrading of the licensees' emergency response capability.

In view of the foregoing, I have determined that the implementation of TED's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered, effective immediately, that the licensees shall: Implement the specific items described in the Attachment to this Order in the manner described in TED's submittals noted in Section III herein no later than the dates in the Attachment.

Extensions of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

V

The licensees may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensees should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 21st day of February 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEES' COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirement	Licensees' completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1a. Submit a safety analysis and an implementation plan to the NRC	Submitted Nov. 30, 1983.
	1b. SPDS fully operational and operators trained	Nov. 30, 1984.
2. Detailed Control Room Design Review (DCRDR)	2a. Submit a program plan to the NRC	Submitted June 15, 1983.
	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Apr. 15, 1984.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3a. Submit a report to the NRC describing how the requirements of Supplement 1 to NUREG-0737 have been or will be met.	Do.
	3b. Implement (installation or upgrade) requirements	Schedule to be supplied Apr. 15, 1984.
4. Upgrade Emergency Operating Procedures (EOPs)	4a. Submit a Procedures Generation Package to the NRC	Mar. 1, 1984.
	4b. Implement the upgraded EOPs	Sept. 30, 1984.
5. Emergency Response Facilities	5a. Technical Support Center fully functional	Completed.[1]
	5b. Operational Support Center fully functional	Do.[1]
	5c. Emergency Operations Facility fully functional	Do.[1]

[1] In all respects except SPDS and Regulatory Guide 1.97 considerations for which the schedule is as given in 1 and 3 above.

[FR Doc. 84-5750 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-460CPA]

Washington Public Power Supply Systems et al. (WPPS Nuclear Project No. 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit amendment proceeding: Gary J. Edles, Chairman, Dr. W. Reed Johnson, Christine N. Kohl.

Dated: February 27, 1984.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 84-5751 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment and Indian Point Units 2 and 3; Meeting

The Combined ACRS Subcommittee on Reliability and Probabilistic Assessment and Indian Point Units 2 and 3 will hold a meeting on March 14, 1984, Room 1167, at 1717 H Street, NW., Washington, DC. The Subcommittee will discuss the future Subcommittee actions on Indian Point Units 2 and 3, and the status of the NRC Staff's activities on Indian Point Units 2 and 3.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be premitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only members of the Subcommittees, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, March 14, 1984—4:30 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussion with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 27, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-5752 Filed 3-1-84; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; New System of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of a new system of records.

SUMMARY: The Railroad Retirement Board proposes to establish a new system of records is published below.

DATES: This new system of records will become effective as proposed without further notice in 30 calendar days from the date of this publication (April 1, 1984) unless comments are received that would result in a contrary determination.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4548.

SUPPLEMENTARY INFORMATION: The proposed new system of records would consolidate into one system of records information regarding debts owed the Railroad Retirement Board under the various benefit programs it administers. Such debt information is presently found in separate systems of records corresponding to these programs. The Board is of the opinion that a consolidated debt information system of records would enable it to better manage its debt collection efforts and provide top management with better quality and more current information regarding debts owed and collected. Initially, the system would be manual; however, it is expected that the system would be automated by or shortly after December 1984.

To increase th efficiency of Government-wide efforts to collect debts owed the United States, Congress enacted the Debt Collection Act of 1982. Among other things, this Act permits Federal agencies to contract with private debt collection agencies and consumer reporting agencies. The Office of Management and Budget has encouraged agencies to avail themselves of these new tools to collect debts owed the Government. Information regarding the Board's use of debt collection and consumer reporting agencies in individual cases would be included in this new system of records. Such information represents new information not yet presently collected or maintained. Other information relating to persons owing debts to the Board that is proposed for inclusion in this new system represents information presently found in other systems maintained by the Board. It is intended that disclosures of debt information to debt collection and consumer reporting agencies be made exclusively from this proposed new system of records.

On January 24, 1984, the Railroad Retirement Board filed a new system report for this system with the Speaker of the House of Representatives, the President of the Senate and the Office of Management and Budget. This was done to comply with Section 3 of the Privacy Act of 1974 and OMB Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976.

Dated: February 23, 1984.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB-42

SYSTEM NAME:

Uncollectible benefit overpayment accounts.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system: Individuals who were overpaid in the benefits they received from the Railroad Retirement Board and whose overpayment amounts have been determined uncollectible after normal recovery efforts have been made. Benefits overpaid are further delineated in the following five categories.

—Individuals receiving the following types of annuities, payable under the Railroad Retirement Act: railroad retirement, disability supplemental, and survivor.
—Individuals receiving unemployment or sickness insurance benefits, payable under the Railroad Unemployment Insurance Act.
—Individuals receiving benefits under section 701 of the Regional Rail Reorganization Act of 1973.
—Individuals receiving benefits under section 106 of the Rock Island Railroad Transition and Employee Assistance Act.
—Individuals receiving benefits under sections 10 & 12 of the Milwaukee Railroad Restructuring Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, Railroad Retirement claim number, type of benefit previously paid, amount of overpayment determined to be uncollectible, amount of interest and penalties assessed and collected, name and address of debt collection agency to which uncollectible account is referred for collection, date of such referral, amount collected by the debt collection agency, and name and address of consumer reporting agencies to which debt information is disclosed and date of such referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railraod Retirement Act of 1974 (45 U.S.C. 231f(b)(6)); section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)); Pub. L. 97–92, Joint Resolution; sections 106 and 114 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005 and 45 U.S.C. 1011); sections 9, 10, 11, and 12 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908–11); Pub. L. 97–365 (Debt Collection Act of 1982); Federal Claims Collection Act (31 U.S.C. 3701 et seq.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Benefit overpayment amounts determined to be uncollectible, history of collectible, history of collection efforts and identification information (name, address—including IRS address information—Social Security number, Railroad Retirement claim number, type of benefit) may be disclosed to private collection agencies for the purpose of recovering benefit overpayments.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

c. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his overpayment may be disclosed to the labor organization official.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552 a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) but only of information relating to debts incurred under Title VII of the Regional Rail Reorganization Act of 1973.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, and magnetic disk.

RETRIEVABILITY:

Social Security number, Railroad Retirement claim number, and name.

SAFEGUARDS:

All records are maintained in a secured building in areas not accessible to the public and are restricted to personnel whose official duties require access. Paper: Records are stored in locked file cabinets. Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, terminal oriented transaction matrix, and an audit trail.

RETENTION AND DISPOSAL:

The RRB will maintain two types of overpayment records. One type will be maintained for a period of 6 years from the date the overpayment record is first entered into the EDP system. These records will be purged after the 6 year time frame. Tape records will be deleted after the 6 year time frame. Paper records will be destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Fiscal and Planning Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, claim number, and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad Retirement Board beneficiaries' claim folders, the overpaid individuals, other Board systems of records, and debt collection agencies.

[FR Doc. 84–4998 Filed 3–1–84; 8:45 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 27, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Pacific Telesis Group
Common Stock, $10 Par Value (File

No. 7–7383)
Southwestern Bell Corp.
Common Stock, $1 Par Value (File No. 7–7384)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 19, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–5755 Filed 3–1–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Flammability Tests; Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) availability and request for comments.

SUMMARY: This AC provides information and guidance concerning flammability tests required for certification of various materials, components, and electrical wire used in small airplanes. This AC incorporates the pertinent sections of Flight Standards Service Release No. 453, Federal Test Method Standard No. 191A, SAE Aerospace Standard 1055B, and SAE Aerospace Information Report 1377A.

DATE: Commenters must identify File AC 23–XX; Subject: Flammability Tests, and comments must be received on or before May 2, 1984.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph W. Burress, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Commercial Telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the draft AC. The draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, February 17, 1984.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 84–5681 Filed 3–1–84; 8:45 am]

BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee; Meeting

February 24, 1984.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C App. I) notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee to be held from April 16, at 1 p.m., through April 20, 1984, at 1 p.m., at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, Mr. Wayne C. Newcomb, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–301, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 426–3725. Information may be obtained from the same source.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 24, 1984.

Wayne C. Newcomb,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 84–5682 Filed 3–1–84; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–84–4]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; Cessna Aircraft Co., et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 22, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC–204), Room 916,

FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 27, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23825	Cessna Aircraft Co.	14 CFR 135.1819(a)(1)	To permit Harol's Air Service to operate Cessna model 208, single-engine aircraft in instrument flight rule and over-the-top conditions while transporting fare-paying passengers.
23902	Eli Lilly International Corp.	14 CFR 61.57(d)	To permit petitioner's pilots to act as pilot in command of an aircraft carrying passengers at night without making 3 takeoffs and 3 landings to a full stop within the proceeding 90 days.
23036	Icelandair, S.A.	14 CFR portions of parts 21 and 91	To extend exemption 3531D, which allows petitioner to operate a leased U.S.-registered DC-8-55 aircraft using an FAA-approved minimum equipment list.
23901	General Motors Corp.	14 CFR 21.181	To permit petitioner to operate certain aircraft using an FAA-approved minimum equipment list.
21444	Flying Tigers	14 CFR 121.391(a)	To extend exemption 3313A which permits petitioner to carry up to 9 persons consisting of cargo agents or freight forwarders on its B-747- 245F and 249F aircraft having a passenger seating configuration of between 12 and 20 seats, without providing a flight attendant, subject to certain limitations.
23874	Flight Line, Inc.	14 CFR 135.244(a) (1), (2), and (3)	To permit petitioner to use pilits in commuter operations who do not have the required number of hours of operating experience.
23904	Rolls Royce, Ltd.	14 CFR SFAR 27, sec. 9(b) and 40 CFR 87.21.	To exempt up to a maximum total of 200 of the petitioner's engines manufactured after Jan. 1, 1984, from the standards under 40 CFR 87.21(d)(1) without any numerical limitation in any single year of manufacture. The engines are Rolls Royce RB 211-524 engines manufactured under type certificate No. E12EU.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23782	Continental Airlines	14 CFR part 121, portions of appendix H	To permit petitioner to conduct training and checking under phase II using petitioner's DC-9 SIM 2 advanced simulator which does not meet the "continuous field of view" requirement. *Denied Feb. 9, 1984.*
23770	Reeves Aviation, Inc.	14 CFR 135.2439(a)	To allow Mr. Jay Meinen to serve as a pilot-in-command (PIC) of a multi-engine airplane operated by a commuter air carrier without holding an airline transport pilot certificate. *Denied Feb. 21, 1984.*
23713	SimuFlite Training International Inc.	14 CFR 61.57 (a)(1), (c), and (d); 61.58 (b)(1), (c), and (d); 61.63 (d)(2) and (d)(3); 61.67 (d)(2); 61.157 (d)(1) and (e)(1); 135.303; and portions of appendix H of part 121.	To permit petitioner, which is not a part 121 certificate holder, to establish an advanced simulation traning program using phase II simulators, to permit pilots attending petitioner's training programs to complete recency of experience and/or practical tests in petitioner's phase II simulator; and, permit the examination of check pilots by FAA examiners in the petitioner's phase II simulator. *Partial grant Feb. 22, 1984.*
23804	Big Sky Airlines (BSA)	14 CFR 135.181(a)(2)	To permit petitioner an alternate means of compliance with the performance requirements, the use of procedures, and operations authorized by section 121.201(b) for compliance with the enroute limitations. *Granted Feb. 9, 1984.*
23753	Saudi Arabian Airlines Corp. (Saudia), a wholly owned Saudi Arabia government agency.	14 CFR 61.2	To permit petitioner's pilots who are neither U.S. citizens nor resident aliens, nor operators of U.S.-registered civil aircraft, to be issued FAA pilot certificates with an A300-600-type rating outside the United States. *Granted Feb. 9, 1984.*
NM-10	Construcciones Aeronauticas, S.A.	14 CFR 25.571(e)(2)	To permit type certification of the model CN-235 turboprop aircraft without meeting the propeller blade impact requirements. *Granted Feb. 20, 1984.*
23855	Valley Hospital Medical Center	14 CFR 135.261(b)	To permit petitioner to operate its hilicopter in a hospital emergency medical evacuation service without complying with duty time limitations, subject to certain conditions. *Granted Feb. 22, 1984.*
22583	Jetaway Air Service	14 CFR 135.89(b)(3)	To permit petitioner to operate its Gates Learjet 35A (GL-35A) series aircraft up to 41,000 ft MSL without either pilot being required to wear an oxygen mask, provided that there are 2 pilots at the controls and each pilot has readily available an approved quick-donning type oxygen mask. *Granted Feb. 17, 1984.*
23670	Kaiserair, Inc.	14 CFR 135.261 (a)(2) and (b)	To permit petitioner to assign its flight crewmembers for duty during flight time and to permit flightcrews, consisting of 3- and 4-pilot crewmembers, to accept an assignment for duty during flight time when the total flight time of that flight exceeds 10 hrs during any 24 consecutive hours and that assignment does not provide for at lesst 10 consecutive hours of rest during the 24-hr period preceding the planned completion of the assignment. *Granted Feb. 17, 1984.*
23521	Singapore Airlines Ltd.	14 CFR 21.181	To amend exemption 3768 to permit petitioner to operate 3 leased U.S.-registered Boeing 747 aircraft using an FAA-approved minimum equipment list. *Granted Feb. 16, 1984.*
23905	Royale Airlines	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified 2-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 1 DC-9-14: N8962. *Granted Feb. 17, 1984.*
22703	Emerald Air, Inc.	14 CFR 91.307	To amend exemption No. 3470e to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified 2-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 3 DC-9-15F: N50AF, N72AF, and N66AF; and 5 DC-9-14: N38641, N626TX, N930EA, N931EA, and N932EA. *Granted Feb. 17, 1984.*
23469	Jet Fleet International Airlines, Inc.	14 CFR 91.307	To amend exemption No. 3668b to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified 2-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than Jan. 1, 1988: 2 BAC-1-11: N800DM, and N9WP. *Granted Feb. 17, 1984*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23912	Braniff Airlines Inc	14 CFR 93.123	Assignment of 4 landing and 4 takeoff slots, to permit petitioner to operate regularly scheduled operations at Washington National Airport beginning Mar. 1, 1984. *Partial grant Feb. 24, 1984.*

[FR Doc. 84-5684 Filed 3-1-84; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP83-9; Notice 2]

BF Goodrich Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by BF Goodrich Co. of Akron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on July 28, 1983, and an opportunity afforded for comment (48 FR 34391).

Paragraph S4.3(e) of Standard No. 109 requires that the sidewall of each passenger car tire be labeled with the actual number of plies in the sidewall and the actual number of plies in the tread area, if different. Goodrich has produced 1,492 225/50VR15 Comp T/A radial blackwall tires branded "2 plies rayon+2 plies fiberglass+4 plies nylon" on the opposite serial side. The correct labeling "2 plies rayon+4 plies fiberglass+2 plies nylon" appears on the serial side sidewall.

Goodrich argued that the noncompliance was inconsequential because the failure to label properly has no impact upon safety, and the tires otherwise comply with Standard No. 109. Branding is correct on one side of the tire.

No comments were received on the petition.

The error of indicating two less plies of fiberglass and two more plies of nylon below the tread area in no way compromises the safety of the tire. The additional plies of nylon and lesser number of fiberglass plies than indicated have no effect upon the load carrying capacity or the endurance properties of the tires. If the tires are retreaded there would be no change in the buffing process because the operation proceeds upon exposure of the belting material itself regardless of the number of plies. As all tires remain in petitioner's possession, however, the National Highway Traffic Safety Administration is asking Goodrich to apply corrective paper labels to them before shipping them to retail outlets.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safty, and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are A. Y. Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 23, 1984.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-5694 Filed 3-1-84; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. IP83-11; Notice 2]

BF Goodrich Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by BF Goodrich Co. of Akron, Ohio, to be ecempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petiton was published on July 28, 1983, and an opportunity afforded for comment (48 FR 34391).

Paragraph S6.5 of Standard No. 119 requires tires to be marked with the tire tread composition and number of plies and maximum load rating. Petitioner produced 101 tires, 11.00-24 ML, load range G "High Tread Logger", with load range F information on the sidewall: Tread: 10 Plies Nylon Sidewall: 8 Plies Nylon Max. Load 5860 lbs. at 75 PSI Cold.

The correct information is: Tread: 12 Plies Nylon Sidewall: 10 Plies Nylon Max. Load 6520 lbs. at 90 PSI Cold.

Petitioner argued that the noncompliance was inconsequential because the tires were branded with the correct size and load range G application. It tested tires from the same production lot for both load range G and F tires in accordance with Standard No. 119 and stated that "all of the tires tested for endurance and static breaking energy exceeded the requirements by substantial margins." Further, proper tread labels on the tires of sale correctly identified them.

No comments were received on the petition.

The mislabelling in question indicates a lower load capacity at a lower inflation pressure than the tires are capable of and designaed to carry. The agency considers it unlikely, however, that the tires will be operated in an underinflated conditon. Trucking companies, the most likely purchasers of these tires, follow procedures that do not rely on sidewall information as much as general consumers do. These procedures employ a set of inflation pressures per tire load range, and as the tires are correctly marked Load Range G, the agency believes that they will be inflated to pressures appropriate for that load range.

The mislabeling also includes an improper count of plies. The agency deems this noncompliance unimportant because tire selection for motor vehicles will be based on load range and not the number of plies contained in the tire. The ply composition is an indication of the number of plies necessary to achieve a particular load range, and does not affect the load carrying capacity of the tire.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are A. Y.

Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 23, 1984.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84–5693 Filed 3–1–84; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

[T.D. 84–48]

Reimbursable Services—Excess Cost of Preclearance Operations

February 23, 1984.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning March 4, 1984.

Installation	Bi-weekly excess cost
Montreal, Canada	$18,826
Toronto, Canada	37,974
Kindley Field, Bermuda	8,234
Nassau, Bahama Islands	18,073
Vancouver, Canada	15,614
Winnipeg, Canada	2,755
Freeport, Bahama Islands	10,530
Calgary, Canada	8,044
Edmonton, Canada	10,348

William H. Russell,

Comptroller.

[FR Doc. 84–5720 Filed 3–1–84; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed extension and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

1DATED: February 28, 1984.

By direction of the Administration.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Memorial Affairs.
2. Gravesite Reservation Survey (2-year).
3. VA Form Letter 40–12.
4. Biennually.
5. Individuals or households.
6. 18,605 responses.
7. 1,550 hours.
8. Not applicable.

[FR Doc. 84–5733 Filed 3–1–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 43
Friday, March 2, 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).

CONTENTS

	Items
Civil Aeronautics Board	1
Equal Employment Opportunity Commission	2
Federal Reserve System	3, 4
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1

CIVIL AERONAUTICS BOARD

Addition of Item to the March 1, 1984 Meeting

TIME AND DATE: 10:00 a.m., March 1, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

2a. Dockets 41663 and 41686, Delta Airlines' Emergency Petition for Reconsideration of Order 84-2-85. (BDA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

Phyllis T. Kaylor,

The Secretary.

[FR Doc. 84-5864 Filed 2-29-84; 3:51 pm]

BILLING CODE 6320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, March 6, 1984.

PLACE: Commission Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-12-FOIA-231-PA, concerning a request for statements of charging party and witnesses from a closed ADEA charge file.

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Consideration of Certain Subpoenas
3. Consideration of Certain Decisions and Settlements

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice issued February 28, 1984.

Dated: February 28, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-5770 Filed 2-28-84; 5:11 pm]

BILLING CODE 6570-06-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 7, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any item carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 28, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5786 Filed 2-29-84; 10:30 am]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, March 7, 1984, following a recess at the conclusion of the closed meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation T (Credit by Brokers and Dealers) to expand permissible deposits at options clearing agencies. (Proposed earlier for public comment; Docket No. R-0500)

Discussion Agenda

2. Proposals regarding the 1984 Private Sector Adjustment Factor. (Proposed earlier for public comment; Docket No. R-0485)
3. Proposed public disclosure of Federal Reserve priced services financial performance information.
4. Publication for comment of proposed amendments to Regulations G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers), T (Credit by Brokers and Dealers), and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks) to make those securities designated by the Securities and Exchange Commission as qualified for trading in the National Market System automatically eligible for margin credit.
5. Proposed guidelines with respect to competition. (Proposed earlier for public comment; Docket No. R-0386)
6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: February 28, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5787 Filed 2-29-84; 10:30 am]

BILLING CODE 6210-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 7, 1984.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Arguments in Weyerhauser Corporation, Docket 9150.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Weyerhauser Corporation, Docket 9150.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

Emily H. Rock,

Secretary.

[FR Doc. 84-5807 Filed 2-29-84; 11:35 am]

BILLING CODE 6760-01-M

federal register

Friday
March 2, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Mimimum Wages for federal and Federally Assisted Construction; General Wage Determination Decisions; Notices

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ83-5102	Mar. 4, 1983
AZ83-5107	Mar. 18, 1983
Delaware: DE82-3015	June 4, 1982.
Florida: FL84-1002	Feb. 9, 1984.
Indiana: IN83-2071	Sept. 9, 1983.
Iowa: IA84-4006	Feb. 17, 1984.
New York:	
NY83-3013	Apr. 29, 1983.
NY83-3003	Mar. 25, 1983.
Pennsylvania: PA79-3020	July 20, 1979.
Tennessee:	
TN83-1088	Nov. 25, 1983.
TN83-1087	Do.
TN83-1086	Do.
TN82-2060	Nov. 19, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

New York: NY81-3018 (NY84-3005)	Mar. 27, 1981.
Virginia: VA83-3040 (VA84-3006)	Oct. 28, 1983.

Signed at Washington, D.C., this 24th day of February 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5102-MOD. # 7
(48 FR 9424 - March 4, 1983)
Maricopa County, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits
Plumbers and Pipefitters	$15.00	3.03

DECISION NO. DE82-3015
MOD. #10
(47 FR 24526 - June 4, 1982)
STATE OF DELAWARE

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Building & Heavy		
New Castle & Kent Counties	16.65	3.20

DECISION NO. AZ83-5107 - MOD. #7
(48 FR 11605 - March 18, 1983)
Statewide Arizona

Change:

	Basic Hourly Rates	Fringe Benefits
Ironworkers:		
Northern Area	19.25	5.44
Southern Area	16.25	5.44

DECISION #FL84-1002 - Mod. #1
(49 FR 6204 - February 9, 1994)
Florida (All counties on the Atlantic Coast & Gulf Coast West to the Aucilla River & all tributary waterways), Georgia (West to the Aucilla & Ocumulgee Rivers within the Jacksonville & Savannah Districts of the Corps of Engineers) North Carolina, South Carolina, Virginia, & Washington, D.C..

CHANGE:

The Fringe Benefits Payments for Shoreman, Spider Barge Operator, & Spill Barge Operator under Hydraulic Dredges Under 20" to 2.03 + a

DECISION NO. IN83-2071
Mod #3
(48 FR 40823 - September 9, 1983)
Adams, Allen, Benton, Bartholomew, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Steuben, Shelby, Tippecanoe, Tipton, Wabash, Warren, Wells, White and Whitley Counties, Indiana

Change:

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS:		
Area 2	$18.00	19.5%

DECISION NO. IA84-4006 - MOD. #2
(49 FR - 2/17/84)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Counties, Iowa

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Glaziers:		
Zones 3,4,5,6 & 7	$13.50	2.27

DECISION NO. NY83-3013 - MOD. #3
(48 FR 19560 - April 29, 1983)
CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA & RHODE ISLAND

CHANGE:

	Basic Hourly Rates	Fringe Benefits
DIPPER & CLAMSHELL DREDGES:		
Deckhand, Handyman and Tug Deckhand	12.54	2.03+ 7%+a
DRILL BOATS:		
Engineer	16.40	2.03+ a+b
Blaster	16.57	2.03+ a+b
Driller, Welder or Machinist	16.41	2.03+ a+b
Fireman	15.89	2.03+ a+b
Oiler	15.62	2.03+ a+b

DECISION NO. NY83-3003 - MOD. #7
(48 FR 12647 - March 25, 1983)
ONONDAGA COUNTY, NEW YORK

OMIT:

BRICKLAYERS & STONE MASONS (Except Cicero & Dewitt Townships)
CEMENT MASONS (Cicero & Dewitt Townships)

ADD:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONE MASONS	14.73	3.31
CEMENT MASONS		
Building	14.30	3.20
Heavy & Highway	12.90	3.20

DECISION NO. PA79-3020 - MOD. # 13
(44 FR 42880 - July 20, 1979)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvaina

Change:

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$16.33	2.31
Bricklayers & Stonemassons Zone 1	14.05	3.42
Carpenters Zone 1	14.50	2.25
Zone 2	15.50	2.91
Electricians Monroe County: Polk, Eldred, Chestnut Hill, Ross, Hamilton, Jackson, Pocono, Stroud, Smithfield and Middle Smithfield Townships	16.70	1.57+ 10%
Monroe County: Barrett, Coolbaugh, Pardise and Price Townships, and that portion of Tobyhanna and Trunkhannock Townships east of State Highway 115. Zone A- From 20 to 30 miles from Zero milestone marker	15.50	3.00+3%
Zone B- All distance beyond 30 miles	16.00	3.00+3%
Remainder of County: Zone A- From 20 to 30 miles from Zero milestone marker	15.50	3.00+ 3%
Zone B- All distances beyond 30 miles from zero marker	16.00	3.00+ 3%
IRONWORKERS Zone 1	18.70	3.70
MARBLE SETTERS Zone 1	13.45	3.40
MILLWRIGHTS Zone 2	15.90	2.91
PAINTERS Zone 3		
Brush	14.55	3.43
Spray	15.55	3.43
Steel	16.55	3.43
POWER EQUIPMENT OPERATORS: Zone 1		
GROUP 1	16.24	22.6% +a
GROUP 2	15.95	22.6% +a
GROUP 3	15.07	22.6% +a
GROUP 4	14.30	22.6+ +a
GROUP 5	13.82	22.6% +a
GROUP 6	12.90	22.6% +a
GROUP 7	16.49	22.6% +a
GROUP 7-A	16.74	22.6% +a
GROUP 7-B	16.99	22.6% +a
TERRAZZO WORKERS Zone 1	13.70	3.40
TILE SETTERS Zone 1	13.45	3.40

MODIFICATIONS

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TN83-1088 Mod # 3 (48 FR 53272 - November 25, 1983) Shelby County, Tennessee		
CHANGE: BOILERMAKERS	$16.20	3.375
DECISION NO. TN83-1087 Mod # 2 (48 FR 53270 - November 25, 1983) Hamilton, Marion, Polk & Rhea Counties, Tennessee		
CHANGE: BOILERMAKERS	$16.20	3.375
DECISION NO. TN83-1086 Mod # 3 (48 FR 53269 - November 25, 1983) Anderson, Knox, Monroe & Roane Counties, Tennessee		
CHANGE: BOILERMAKERS	$16.20	3.375
DECISION NO. TN82-2060 Mod # 3 (47 FR 52323 - November 19, 1982) Carter, Greene, Hawkins, Johnson, Sullivan, Unicoi, & Washington Counties, Tennessee		
CHANGE: BOILERMAKERS	$16.20	3.375

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTIES: ALBANY, COLUMBIA, GREENE, FULTON, MONTGOMERY; RENSSELAER SARATOGA, SCHENECTADY, SCHOHARIE, and WASHINGTON

DECISION NO. NY84-3005 DATE: Date of Publication

Supersedes Decision No. NY81-3018 dated March 27, 1981 in 46 FR 19174.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy Construction (except water well drilling), and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.60	2.36
BOILERMAKERS	18.16	3.381
BRICKLAYERS:		
AREA 1:		
Bricklayers, Stone Masons, Marble Masons, Cement Masons, Plasterers, Pointers, Caulkers & Cleaners	14.70	3.11
Rehabilitation work on residential structures over 4 stories, defined to include demolition, repair and alteration on any existing structure which is intended for predominantly residential use	11.03	3.11
Marble, Tile & Terrazzo Workers	11.95	2.20
Cement Masons, Heavy & Highway	13.01	2.55
AREA 2:		
Bricklayers, Stone Masons, Marble Masons, Cement Masons, Plasterers, Pointers, Caulkers & Cleaners	13.73	2.35
Marble Tile & Terrazzo Workers	11.95	2.20
Cement Masons (Heavy & Highway)	13.01	2.55
CARPENTERS:		
AREA 1:		
Carpenters, Drywall Installers, Soft Floor Layers & Lathers	15.22	2.07
Millwrights	15.72	2.07
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	11.42	2.07
Piledriverman & Dockbuilders	13.92	2.07 +a
Divers	17.66	6.685
Divers tenders	16.27	7.765
Heavy & Highway	13.92	2.075 +a
AREA 2:		
Carpenters, Dockbuilders, Millwrights & Piledrivermen	14.20	4.40
Heavy & Highway	13.20	4.05+a
AREA 3:		
Carpenters & Soft Floor Layers	12.72	2.05+b
Millwrights & Piledrivermen	12.97	2.05+b
Heavy & Highway	13.945	3.09+a
AREA 4:		
Carpenters	13.85	2.105 +c
Millwrights	14.10	2.105 +c
Piledrivermen	13.25	1.775 +c
Heavy & Highway	13.89	2.105 +a
ELECTRICIANS:		
AREA 1	16.95	1.60+ 3%
AREA 2	16.65	2.20+ 3%+d
AREA 3		
Electricians	15.70	3.50+ 3%
Towers & Smokestacks over 100'	16.70	3.50+ 3%
Over 30' above floor on toothpicks, structural steel, boatswain chair, and swing scaffold	15.20	3.50+ 3%
Shafts over 25' deep & tunnels over 50' long	18.84	3.50+ 3%
AREA 4	13.90	4.00+ 3.5%

DECISION NO. NY84-3005	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
AREA 1:		
Elevator Constructors	14.89	3.00+ e+f
Helpers	10.42	3.00+ e+f
Probationary Helpers	7.445	
IRONWORKERS:		
AREA 1:		
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors & Stone		
Derrickmen	13.90	3.99
Sheeters	14.15	3.99
Sheeters, bucker-up	14.025	3.99
Rehabilitation work on residential structures over 4 stories, defined to include all work, including demolition, alteration and repair on any existing structure which is intended for predominantly residential use	10.425	3.99
AREA 2:		
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors & Stone		
Derrickmen	13.78	3.17
Sheeters	14.03	3.17
Sheeters, bucker-up	13.905	3.17
LABORERS (BUILDING):		
AREA 1:		
Group 1	12.70	2.37
Group 2	12.85	2.37
Group 3	12.875	2.37
Group 4	12.925	2.37
Group 5	12.975	2.37
Group 6	12.95	2.37
Group 7	13.175	2.37
Rehabilitation work on residential structures over 4 stories, defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	9.53	2.37
Group 2	9.68	2.37
Group 3	9.705	2.37
Group 4	9.755	2.37
Group 5	9.805	2.37
Group 6	9.78	2.37
Group 7	10.005	2.37
AREA 2:		
Group 1	12.00	3.07
Group 2	12.15	3.07
Group 3	12.175	3.07
Group 4	12.225	3.07
Group 5	12.275	3.07
Group 6	12.25	3.07
Group 7	12.475	3.07
Rehabilitation work on residential structures over 4 stories, defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	9.00	3.07
Group 2	9.15	3.07
Group 3	9.175	3.07
Group 4	9.225	3.07
Group 5	9.275	3.07
Group 6	9.25	3.07
Group 7	9.475	3.07
AREA 3:		
Group 1	12.65	2.42
Group 2	12.80	2.42
Group 3	12.825	2.42
Group 4	12.875	2.42
Group 5	12.925	2.42
Group 6	12.90	2.42
Group 7	13.125	2.42
Rehabilitation work on residential structures over 4 stories, defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	9.49	2.42
Group 2	9.64	2.42
Group 3	9.665	2.42

DECISION NO. NY84-3005

LABORERS (BUILDING) (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 4	9.715	2.42
Group 5	9.765	2.42
Group 6	9.74	2.42
Group 7	9.965	2.42
AREA 4:		
Group 1	10.09	2.40 +g
Group 2	10.24	2.40 +g
Group 3	10.49	2.40 +g
Group 4	10.59	2.40 +g
AREA 5:		
Where total contract price exceeds $200,000		
Group 1	13.30	3.20
Group 2	13.55	3.20
Group 3	13.95	3.20
Where total contract price does not exceed $200,000		
Group 1	11.97	3.20
Group 2	12.26	3.20
Group 3	17.56	3.20
AREA 6:		
Group 1	12.94	2.50 +h
Group 2	13.19	2.50 +h
Group 3	13.34	2.50 +h
LABORERS (HEAVY & HIGHWAY:		
AREA 1:		
Group 1	11.74	2.35 +h
Group 2	11.94	2.35 +h
Group 3	12.14	2.35 +h
Group 4	12.34	2.35 +h
AREA 2		
Group 1	11.04	3.05 +h
Group 2	12.24	3.05 +h
Group 3	11.44	3.05 +h
Group 4	11.64	3.05 +h
AREA 3:		
Group 1	11.69	2.40+h
Group 2	11.89	2.40+h
Group 3	12.09	2.40+h
Group 4	12.29	2.40+h
AREA 4:		
Group 1	10.89	3.20+h
Group 2	11.09	3.20+h
Group 3	11.29	3.20+h
Group 4	11.49	3.20+h
AREA 5:		
Group 1	13.45	3.20+h
Group 2	13.70	3.20+h
Group 3	14.10	3.20+h
AREA 6:		
Group 1	12.36	2.50+h
Group 2	12.61	2.50+h
Group 3	12.96	2.50+h
LINE CONSTRUCTION See last page of decision		
PAINTERS:		
AREA 1:		
Brush, Tapers	13.99	2.08
Spray	14.49	2.08
Sandblasting Open Steel above 40'; Bridge painting	14.74	2.08
Work above 40' on swing scaffold, bosun chair, water towers, flag poles, window jacks; Epoxy coatings on interior of tanks and hoppers	14.49	2.08
AREA 2:		
Brush	11.20	1.76
Roller (handle extension exceeding 6 feet), Drywall taping, Vinyl wallcovering	11.45	1.76
Bridge, Structural steel and iron, Swing scaffold, Bosun chair, Water Towers, Tanks, Flagpoles, Window jacks	11.60	1.76
Spray, Sandblasting and Waterblasting	12.10	1.76

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
AREA 3:		
Brush Structural steel, Bridges, Towers, Fire escapes, Smokestacks, Flagpoles and other exposed areas 15 ft. or more in height, Swing stage, Window jacks, Safety belts, Boatswain chair and Spray	15.14	2.33
	16.14	2.33
PLUMBERS & STEAMFITTERS:		
AREA 1	16.14	2.81
AREA 2	15.11	4.45
AREA 3	17.10	2.50
AREA 4	14.30	2.45
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION:		
Group 1	14.66	3.50+i
Group 2	15.55	3.50+i
Group 3	16.06	3.50+i
Group 4	16.25	3.50+i
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use		
Group 1	11.00	3.50+i
Group 2	11.66	3.50+i
Group 3	12.05	3.50+i
Group 4	12.53	3.50+i
HEAVY & HIGHWAY CONSTRUCTION:		
Group 1	15.29	3.50+i
Group 2	14.79	3.50+i
Group 3	13.36	3.50+i
Group 4	12.10	3.50+i
ROOFERS:		
AREA 1:		
Roofers	13.50	3.07
Pitch & Asbestos	14.00	3.07
AREA 2	12.85	2.19
SHEET METAL WORKERS	15.37	1.04+j
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS:		
BUILDING CONSTRUCTION:		
Group 1	12.55	2.85+ i+k
Group 2	12.82	2.85+ i+k
HEAVY & HIGHWAY		
Group 1	12.24	2.55+i
Group 2	12.29	2.55+i
Group 3	12.34	2.55+i
Group 4	12.49	2.55+i
Group 5	12.64	2.55+i
WELDERS: Rate prescribed for craft to which the welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).		

a. Paid Holidays: Fourth of July and Labor Day, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll in the week in which the holiday falls.

b. Paid Holidays: Labor Day and Memorial Day, provided the employee is on the payroll the week before or the week after the holiday and works the day after the holiday.

c. Paid Holidays: Labor Day, provided the employee has been on the payroll the calender week or any day of the holiday week preceeding the holiday and works the day after the holiday.

d. Paid Holidays: Thanksgiving Day, provided the employee reports to work the day after the holiday.

e. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and the day after Thanksgiving Day.

f. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

g. Paid Holidays: Labor Day and Memorial Day, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll in the payroll week in which the holiday falls.

h. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

i. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, provided the employee works the day before and the day after the holiday.

j. Election Time Off: Two hours off with pay on the first Tuesday after the first Monday in November, provided the employees are working on a job beyond 50 miles from the shop.

k. One week vacation after 1 year; 2 weeks vacation after 5 years.

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AREA DESCRIPTIONS

BRICKLAYERS:

AREA 1: ALBANY; COULUMBIA; FULTON; GREENE; MONTGOMERY; RENSSELAER; SARATOGA; SCHENECTADY; SCHOHARIE; WASHINGTON (Easton, Cambridge, White Creek, Jackson, Salem, Greenwich, Argyle, Hebron, Southern part of Fort Edward).

AREA 2: WASHINGTON (Kingsbury, Hartford, Granville, Fort Ann, Hampton, Whitehall, Dresden, Putnam).

CARPENTERS:

AREA 1: ALBANY; FULTON; MONTGOMERY (east of the center line of Route 10, but excluding the Palatine Bridge and Canajoharie area); RENSSELAER; SARATOGA (except the Twps. of Day, Hadley, Edinburg, Corinth and Moreau); SCHENECTADY; SCHOHARIE (except the Twps. of Sharon, Summit, Seward, Richmondville and Jefferson); WASHINGTON (Salem, Jackson, Cambridge, White Creek, Easton).

AREA 2: COLUMBIA; GREENE; SCHOHARIE (Sharon, Summit, Seward, Richmondville, Jefferson).

AREA 3: MONTGOMERY (west of the center line of Route 10, and including the Palatine Bridge and Canajoharie area).

AREA 4: SARATOGA (Day, Hadley, Edinburg, Corinth, Moreau); WASHINGTON (Remainder of County).

ELECTRICIANS:

AREA 1: ALBANY (Entire county except the portion of Colonie Township north of a line drawn from the Hudson River along the south limits of Watervliet, northwest along the Troy-Shaker Rd., southwest along Fidlers Lane, north on Route 9 to Troy-Shaker Rd., north on Old Niskayuna Rd. to Sicker Rd., south to Troy-Shaker Rd., west to Vly Rd., southwest to State Highway 5, southeast to Karner Rd., southwest to Albany City limits, around the north City limits of Albany to Willow St., along Willow St. to U.S. 20, and along U.S. 20 to Schenectady County line); COLUMBIA; GREENE (north of a line following the south limits of the City of Catskill in a westerly direction from the Hudson River to Highway 23A, along 23A to the road following the Little West Kill and continuing along this road to Delaware County); RENNSELAER (City of Rennsselaer, East Greenbush, Nassau, Stephentown, Schodack).

AREA DESCRIPTIONS (CONTINUED)

AREA 2: ALBANY (Cities of Cohoes and Watervliet and surrounding area of Colonie Township east of a line drawn from the Mohawk River south on Buhrmaster Rd. to State Highway 7 and along Highway 7 to Albany-Shaker Rd.); RENSSELAER (Remainder of County); SARATOGA (east of a line from the Mohawk River along route 9, excluding Saratoga Springs, continuing along State Highway 9, including Corinth, continuing along County Rd. 10, County Rd. 7 and County Rd. 4, including Seward Bridge Power House, to and including the Village of Hadley); WASHINGTON.

AREA 3: ALBANY (Remainder of County); FULTON; MONTGOMERY; SARATOGA (Remainder of County); SCHENECTADY; SCHOHARIE.

AREA 4: GREENE (Remainder of County).

ELEVATOR CONSTRUCTORS:

AREA 1: ALBANY; COLUMBIA; GREENE; RENSSELAER; SARATOGA; SCHENECTADY.

IRONWORKERS:

AREA 1: ALBANY; COLUMBIA; FULTON (Broadalbin, Mayfield, Northhampton, Bleeker, Johnstown); MONTGOMERY (Florida, Amsterdam, Glen, Charleston, Mohawk, Root); RENSSELAER; SARATOGA; SCHENECTADY; SCHOHARIE (except Sharon).

AREA 2: FULTON (Straford, Caroga, Oppenheim, Ephratah); MONTGOMERY (Palatine, Canajoharie, Minden, St. Johnsville); SCHOHARIE (Sharon).

LABORERS (BUILDING CONSTRUCTION):

AREA 1: ALBANY (North to First Avenue, City of Watervliet, west on First Avenue (south side), north on Lincoln Avenue (west side) to Waterviliet-Shaker Rd. (Rt. 155, south side) to junction of Rt. 9, north on Rt. 9 (west side) to Crescent Bridge and Mohawk River); COLUMBIA (Stuyvesant, Stockport, Kinderhook, New Lebanon, Canaan, Ghent, Chatham, Austerlitz); GREENE (except Twp. of Catskill); RENSSELAER (North Greenbush, East Greenbush, Schodack, Nassau, Stephentown, City of Rensselaer).

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AREA DESCRIPTIONS (CONTINUED)

AREA 2: ALBANY (The west side of the Hudson River, extending westerly along the north side of First St., Watervliet, to one half mile of Rt. 9 to Shaker Rd., to Rt. 9, northerly to the north line of Albany County); RENSSELAER (Berlin, Sand Lake, Poestenkill, Schodack, Pittstown, Hoosick, Brunswick, Grafton, Petersburg); SARATOGA (East side of Rt. 9, northerly along Rt. 9 to Malta, including all of the Twp. of Stillwater, continuing along the east shore of Saratoga Lake to the Saratoga city line, easterly, taking in all of Schuylerville); WASHINGTON.

AREA 3: FULTON (Bleeker, Mayfield, Northampton, Johnstown, Broadalbin, Perth); MONTGOMERY (Mohawk, Glen, Charleston, Amsterdam, Florida); SARATOGA (except the Twps. of Saratoga, Stillwater, Half Moon and Waterford); SCHENECTADY; SCHOHARIE.

AREA 4: FULTON: Stratford, Caroga, Oppenheim, Ephrata); MONTGOMERY: (Minden, Palatine, Root, Canajoharie).

AREA 5: GREENE (Catskill).

AREA 6: COLUMBIA (Greenport, Claverack, Hillsdale, Livingston, Germantown, Taghkanic, Copake, Clermont, Gallatin, Ancram).

LABORERS (HEAVY & HIGHWAY CONSTRUCTION):

AREA 1: ALBANY (except Cites of Watervliet and Cohoes); COLUMBIA (Stuyvesant, Stockport, Kinderhook, New Lebanon, Canaan, Ghent, Austerlitz); GREENE (except Twp. of Catskill); RENSSELAER (North Greenbush, East Greenbush, Schodack, Nassau, Stephentown).

AREA 2: ALBANY (Cities of Watervliet and Cohoes); RENSSELAER (Berlin, Sand Lake, Poestenkill, Schaghticoke, Pittstown, Hoosick, Brunswich, Grafton, Petersburg); SARATOGA (Stillwater, Half Moon); WASHINGTON.

AREA 3: FULTON (Bleeker, Mayfield, Northampton, Johnstown, Broadalbin, Perth); MONTGOMERY (Mohawk, Glen, Charleston, Amsterdam, Florida); SARATOGA (except the Twps. of Saratoga, Stillwater, Half Moon and Waterford); SCHENECTADY; SCHOHARIE.

AREA 4: FULTON (Stratford, Oppenheim, Caroga, Ephrata); MONTGOMERY (St. Johnsville, Minden, Canajoharie, Palatine Root).

AREA 5: GREENE (Catskill).

AREA DESCRIPTIONS (CONTINUED)

AREA 6: COLUMBIA (Greensport, Claverack, Hillsdale, Livingston, Germantown, Taghkanic, Copake, Clermont, Gallatin, Ancram).

PAINTERS:

AREA 1: ALBANY; COLUMBIA (Stockport, Ghent, Austerlitz, Canaan, New Lebanon, Chatham, Kinderhook, Stuyvesant, Greenport); GREENE (Greenville, Coxsackie, Catskill, New Baltimore); FULTON (except Twps. of Northamption, Mayfield and Broadalbin); MONTGOMERY; RENSSELAER; SARATOGA (Clifton Park, Half Moon, Waterford), Galway, Milton, Charlton); SCHENECTADY; SCHOHARIE (except the Twps. of Sharon, Seward, Richmondville, Summit, Jefferson, Blenheim, Gilboa and the western half of Fulton).

AREA 2: FULTON (Northampton, Mayfield, Broadalbin); SARATOGA (Day, Hadley, Corinth, Stillwater, Saratoga, Northumberland, Moreau, Wilton, Saratoga Springs City, Greenfield, Edinburg, Providence, Ballston); WASHINGTON (Fort Edward, Argyle, Hebron, Granville, Hartford, Kingsbury, Fort Ann, Whitehall, Hampton, Dresden, Putnam).

AREA 3: COLUMBIA (Remainder of County); GREENE (Remainder of County).

PLUMBERS:

AREA 1: ALBANY; COLUMBIA; GREENE; RENSSELAER; SARATOGA (Half Moon, Stillwater, Waterford).

AREA 2: MONTGOMERY (Minden, Canajoharie).

AREA 3: FULTON; MONTGOMERY (Remainder of County); SARATOGA (Clifton Park, Charlton, Galway, Milton); SCHENECTADY; SCHOHARIE.

AREA 4: SARATOGA (Remainder of County); WASHINGTON.

ROOFERS:

AREA 1: ALBANY; COLUMBIA; FULTON; GREENE; MONTGOMERY; RENSSELAER; SARATOGA; SCHENECTADY.

AREA 2: SCHOHARIE.

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CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING CONSTRUCTION):

AREAS 1, 2, & 3:

GROUP 1: Common Laborers.
GROUP 2: Pipelayers, mortar mixers (hand or machine), jackhammer operator, wellpointing, concrete vibrators, power driven buggies.
GROUP 3: Form setters (curb).
GROUP 4: Wagon drill operator.
GROUP 5: Acetylene burners.
GROUP 6: Demolition.
GROUP 7: Blasters.

AREA 4:

GROUP 1: Common Laborers.
GROUP 2: Pipelayers, mortar mixers, motor buggy (walk behind), walk-behind power high lift.
GROUP 3: Wagon drill operator.
GROUP 4: Blasters, form setters, mortor buggy (rider type).

AREA 5:

GROUP 1: Common laborers, mason tenders, mortar mixers, hod carriers, scaffold builders, concrete men, signalman, vibrator operator, poured gypsum roof work, wrecking, walking power buggy, landscaper, chipping hammer (air or electric 1" or under), operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing and accoustic pumps and mixers.

GROUP 2: Asphaltmen, pipelayers, air or electric jackhammer, air track, wagon, joy and jib drills, powdermen, gunnite, concrete saw, sandblasting, pressure blasting, barmen, chain saw operator, riding power buggy, vibro, barco, joy tamper or similar type tamper (air or gas), walk behind roller, granite curbing, all fork lifts and laser operations.

GROUP 3: Blasters, form setters, burner acetylene torch, Ingersoll Rand, heavy duty crawler-master type HCMZ, drill machine or equivalent, all wrecking work 50' or more above the ground.

AREA 6:

GROUP 1: General laborers, mason tenders, carpenter tenders, laborer stripping and cleaning forms, laborer grading and digging ditches, sweepers, cleaners.

CLASSIFICATION DESCRIPTIONS (CONTINUED)

GROUP 2: Hod carriers, plasterers' tenders, scaffold builders (padlock and self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine and hand), concrete mixers (by machine under 21E), vibrators, form setters, asphalt rakers, handling reinforcement rods, drillers, jackhammer operator, signalman, gunniting, motorbugs, water pump 2" or under, barco machine, wreckers, paving breakers, power saw operators, other machine operators.

GROUP 3: Blasters, laser beam operator.

LABORERS (HEAVY & HIGHWAY):

AREAS 1, 2, 3, & 4:

GROUP 1: Laborers, drill tenders, outboard and hand boats.

GROUP 2: Bull float, chain saw, concrete aggregate bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw operator on asphalt paver, water pump operators (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

GROUP 3: All rock or drilling machine operators (except quarry master and similar type), acetylene torch operators, asphalt raker, powderman.

GROUP 4: Blasters, form setters, stone or granite curb setters.

AREA 5:

GROUP 1: Laborer, pitman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control.

GROUP 2: Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jub rig and joy drill operators, power buggy operators, gunnite and sandblasting, coal passers and other machine operators, sprayer and nozzle men on mulching and seeding machines, guard rail and fencemen, waterproofing, spraying and brushing of concrete for preservative purposes, all seeding and sod laying, all landscape work, grade checkers,

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CLASSIFICATION DESCRIPTIONS (CONTINUED)

all bridge work, walk behind self-propelled power saw, walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and shoring, bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man, sta-wall or similar type product, chain saw operator.

GROUP 3: Concrete finisher on highways, form setter, granite stone layer, Ingersoll Rand heavy duty crawler-master type HCMZ or equivalent or any drill using a 4" or larger bit.

AREA 6:

GROUP 1: General laborers.

GROUP 2: Concrete men, signal man, mason tender, pipelayer, riprap and dry stone layer, asphalt worker, screed bar operator, jackhammerman, wagon driller, air-track operator, nippers, powderman, high scalers, power buggy operator, steel rod carrier, vibrator operator compactor, wrecking laborers, gunnite and sandblasting, water pumps 2" or under.

GROUP 3: Blaster, form setter, laser beam operator.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

GROUP I - Oiler, fireman and heavy-duty greaser, boilers, and steam generators, pump, vibrator, mortar mixer, air compressor, dust collector, welding machine, well point, mechanical heater, generators, temporary light plants, contrete pumps, electric submersible pump 4" and over, murphy type diesel generator, conveyor, elevators, concrete mixer and beltcrete power pack (belcrete system).

GROUP II - Bulldozer, push cat, tractor, traxcavator scraper, LeTourneau grader, form fine grader, road roller, blacktop roller, blacktop spreader, power brooms, sweepers, trenching machine, Barber Green loader, side booms, hydro hammer, concrete spreader, concrete finishing machine, high lift, fork lift, one drum hoist, power hoisting (single drum), hoist - two drum or more, three drum engine, power hoisting (two drum and over), two drum and swinging engine, three drum swing engine, hod hoist, A-L fram winches, core and well drillers (one drum), post hole digger, model CHB Vibro-Tamp or similar machine, batch bin and plant operator, dinkey locomotive, seeding and mulching machines.

CLASSIFICATION DESCRIPTIONS (CONTINUED)

GROUP III - Crane, hydraulic cranes, tower crane, locomotive crane, piledriver, cableway, derricks, whirlies, dragline, shover, backhoe, gradalls, power road grader, all CMI equipment, fornt-end rubber tire loader, tractor-mounted drill (quarry master), mucking machine, concrete central mix plant, concrete pump, belcrete system, automated asphal concrete plant and tractor road paver.

GROUP IV - Maintenance Engineer.

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION):

GROUP I - Automated concrete spreadr (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), black top plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal), hoist (2 or 3 drum), Holland loader, mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quad 9, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt-type loader, truck crane, truck or trailer mounted log chipper (self-feeder), tug operator (except manned rented equipment), tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, L.C.M. work boat operator, locomotive, maintenance engineer/greaseman/welder, mixer (for stablized base self-propelled), monorall machine, plant engineer, pump crete, ready mix concrete plant, refrigation equipment (for soil stabilization), road widener, roller (all above subgrade), sea mule, tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, ballast regulator (ride-on), compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), dust collectors, generators, pumps, welding machines, light plants (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill core, electric pump used in conjunction

with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), grout pump gunnite machine, hammers (hydraulic-self-propelled), hydra-spiker (ride-on), hydro-blaster water, post hole digger and post driver, power sweeper, roller (grade and fill), scarifier (ride-on spansaw (ride-on), sumbersible electric pump (when used in lieu of well point system), tamper (ride-on), tie extractor (ride-on), tie handler, tie inserter (ride-on), tie spacer (ride-on), track liner, tractor with towed accessories, vibrator compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), dust collectors, generators, pumps, welding machines, light plants (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (sel-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, Revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS (BUILDING CONSTRUCTION):

GROUP 1: Straight, winch, transit mix on job site, road oilers, dump, panel, pick-up, water and fuel trucks on site (including nozzle.

GROUP 2: Euclid or similar equipment, lowboy or lowboy trailers.

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION):

GROUP 1: Pick-ups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters and receivers, greasers, truck tireman.

GROUP 2: Tandems, batch truck, mechanics.

GROUP 3: Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic and fuel truck.

GROUP 4: Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self-loaded, straddle (ross) carrier, and self-contained concrete unit.

GROUP 5: Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded.

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LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.20	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

[FR Doc. 84-5422 Filed 3-1-84; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: VIRGINIA

DECISION NO. VA84-3006
Supersedes Decision No. VA83-3040 dated October 28, 1983 in 48 FR 50000
DESCRIPTION OF WORK:
Highway Construction

COUNTIES: AMELIA, BRUNSWICK, CHARLES CITY, CHESTERFIELD, DINWIDDIE, GOOCHLAND, HANOVER, HENRICO, LUNENBURG, MECHKLENBURG, NEW KENT, NOTTOWAY, POWHATAN, PRINCE GEORGE, and the Independent Cities of RICHMOND, PETERSBURG, CHESTERFIELD & COLONIAL HEIGHTS
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	5.87	
CARPENTER, STRUCTURE	6.47	
CARPENTER HELPER, STRUCTURE	5.31	
CONCRETE FINSHER	6.55	
CONCRETE FINISHER HELPER	5.33	
ELECTRICIANS	11.12	
FORM SETTER	6.36	
GUARDRAIL/FENCE ERECTOR	5.78	
IRON WORKER, REINF.	7.05	
IRON WORKER, REINF. HELP HELPER	6.22	
LABOR UNSKILLED	4.70	
LANDSCAPE WORKER	4.00	
MECHANIC	7.47	
PAINTER	6.50	
PAINTER, BRIDGE	5.88	
PIPE LAYER	5.64	
SIGN ERECTOR	5.38	
ASPHALT DISTRIBUTOR OPER	5.28	
ASPHALT PAVER OPERATOR	5.97	
BACKHOE OPERATOR	6.85	
BULLDOZER OPERATOR	6.11	
BULLDOZER OPERATOR (Utility)	6.96	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & Under)	7.04	
CRANE, DERRICE, DRAGLINE OPERATOR (OVER 1 YD.)	7.50	
DRILL OPERATOR	7.67	
LINE MARKER OPERATOR	5.00	
LOADER OPERATOR (2 YDS. & UNDER)	6.34	
LOADER OPERATOR (OVER 2 YDS.)	6.34	
MOTOR GRADER OPERATOR (FINE GRADE)	7.14	
MOTOR GRADER OPERATOR (ROUGH GRADE)	6.99	
OILER GREASER	5.40	
POWER TOOL OPERATOR	5.83	
ROLLER OPERATOR (ROUGH)	5.57	
ROLLER OPERATOR (FINISH)	5.57	
SCRAPER PAN OPERATOR	5.77	
SLIP-FORM PAVER OPERATOR	5.45	
SLURRY SEAL MACHINE OPERATOR	6.25	
SLURRY SEAL PAVER TRUCK DRIVER	5.25	
STONE SPREADER OPERATOR	6.21	
SUBGRADE MACHINE OPERATOR	6.55	
TRACTOR OPERATOR (UTILITY)	5.35	
TRUCK DRIVER, HEAVY DUTY (7 c.y. & UNDER)	5.82	
TRUCK DRIVER, HEAVY DUTY (OVER 7 c.y.)	5.82	
TRUCK DRIVER (MULTI-REAR AXLE)	5.00	
TRUCK DRIVER (SINGLE-REAR AXLE)	4.83	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5.(a)(1)(ii)).

federal register

Friday
March 2, 1984

Part III

Department of Labor

Office of the Secretary

Twelve-Month List for Review of Rules; Proposed Rule

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, V

29 CFR Subtitle A and Chs. V, XVII, and XXV

30 CFR Ch. 1

Twelve-Month List for Review of Rules

AGENCY: Department of Labor.

ACTION: Twelve-month listing for review of rules.

SUMMARY: This Notice sets forth the Department's twelve-month listing for review of existing regulations pursuant to the Regulatory Flexibility Act.

DATES: This schedule includes all regulations which will be under a Regulatory Flexibility Act review between now and January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8201.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility act requires that each agency publish a 10-year schedule for the review of all agency rules that are in existence on the effective date of the Act (January 1, 1981) and that have or will have a significant economic impact on a substantial number of "small entities" (small businesses, small organizations and small governmental jurisdictions). The Department published its 10-year schedule on June 30, 1981 (see 46 FR 33536). During a Regulatory Flexibility Act review, the agency is required to examine the rule's economic impact on "small entities" and to determine whether the rule can be modified to lessen its "small entity" impact, consistent with the stated objectives of the applicable statutes.

The Regulatory Flexibility Act also requires that each year agencies publish in the **Federal Register** a list of the rules that the agency's 10-year schedule has set for a Regulatory Flexibility Act review during the succeeding twelve months. The list must include a brief description of each rule, the need for and legal basis of each rule, and must invite public comment.

In conducting its review of rules, the Regulatory Flexibility act requires that, in assessing a rule's economic impact on small entities, the Department consider the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

It should be emphasized that the twelve-month review list is not intended to be an all-inclusive list of existing rules that the Department intends to have under substantive review in 1984. The 12-month review list includes only those rules that have been set by the Department of Labor's 10-year schedule for a 1984 Regulatory Flexibility Act review ("small business" review). Hence, the Department's 12-month list does not include existing Departmental rules that are currently under review for reasons other than a scheduled Regulatory Flexibility Act review. However, a listing of those rules is in substance published in the Department's Semiannual Agenda of Regulations. The regulations listed in that agenda are being reviewed pursuant to a mandate of Executive Order 12291; but where appropriate, the Department is simultaneously reviewing these rules for consistency with the Regulatory Flexibility Act. Executive Order 12291 establishes specific rulemaking requirements that an agency must abide by to ensure that its rules are well-reasoned and cost-effective; requires the agency to initiate reviews of its existing rules to ensure that they are in conformance with the Executive Order's requirements; and further requires the agency to publish in its Semiannual Agenda a listing of such existing regulations that are under current review pursuant to the Executive Order. The listing of existing Labor Department regulations currently under review pursuant to Executive Order 12291 was published in the **Federal Register** on October 17, 1983 (48 FR 47538).

The list of regulations to be reviewed by the Department of Labor in 1984, pursuant to a scheduled Regulatory Flexibility Act review follows. Public comment is invited on the listing.

I. EMPLOYMENT AND TRAINING ADMINISTRATION

1. 29 CFR Parts 94–99—Provisions for Programs Under the Comprehensive Employment and Training Act (CETA)

Description: These regulations describe general and administrative provisions and Federal responsibilities under Titles I, II, and VI of CETA.

Need and legal basis: Since the time these CETA regulations were set for review by the Department's 10-year schedule, they have been rescinded and replaced by regulations under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) at 20 CFR Parts 626–643, 652, and 684. Accordingly, review of this entry is no longer required.

2. 20 CFR Part 601—Administrative Procedure

Description: The regulation described the requirements for Federal approval of State unemployment compensation laws and for Federal certification of tax credits to States. The regulation also describes conditions for Federal funding of States for the administration of unemployment insurance and employment service programs.

Need and Legal Basis: The regulation is needed to direct the administration of the Federal-State system of worker unemployment compensation. The legal basis for the regulation is 26 U.S.C. 3301–3308, 29 U.S.C. 49, 42 U.S.C. 1302, and 49 U.S.C. 501–503.

3. 29 CFR Part 29—Labor Standards for the Registration of Apprenticeship Programs

Description: The regulation governs the Department of Labor's national apprenticeship program. It describes the labor standards required for Federal approval of local apprenticeship programs and for Federal recognition of State apprenticeship agencies.

Need and Legal Basis: The National Apprenticeship Act of 1937 (Pub. L. 75–308) requires the Secretary of Labor to set standards to safeguard the welfare of apprentices, to bring together employers and labor unions to establish apprenticeship programs, and to further Federal cooperation with State apprenticeship agencies. The legal basis for the regulation is 5 U.S.C. 301, 29 U.S.C. 50, and 40 U.S.C. 276(c).

4. 29 CFR Part 30—Equal Employment Opportunity in Apprenticeship and Training

Description: The regulation describes policies and procedures for promoting equality of opportunity in Department of Labor approved apprenticeship programs. The regulation applies to the recruitment and selection of apprentices and to employment and training during the period of apprenticeship. The regulation requires sponsors of apprenticeship programs to adopt a written affirmative action plan.

Need and Legal Basis: The regulation is needed to assure compliance with the prohibition against discrimination in

apprenticeship programs on the basis of race, color, religion, national origin or sex. The legal basis for the regulation is 5 U.S.C. 301, 29 U.S.C. 50, and 40 U.S.C. 276(c).

5. 20 CFR Part 603—State Program Budget Plans Under the Wagner-Peyser Act

Description: This regulation sets Federal requirements for submission by State employment service agencies of program budget plans.

Need and Legal Basis: Section 501 of the Job Training Partnership Act (JTPA) (29 U.S.C. 1501 et seq.) amends the Wagner-Peyser Act. The above regulation has been replaced by a new rule under JTPA at 20 CFR Part 652: Establishment and Functioning of State Employment Services. Accordingly, this entry on the Department's 10-year schedule is no longer in need of review.

6. 20 CFR Part 625—Disaster Unemployment Relief

Description: The regulation governs payment of unemployment assistance and provision of reemployment services to persons unemployed as a result of a major disaster. The program is operated by State agencies through Federal-State agreements.

Need and Legal Basis: The regulation is necessary to provide guidance for the payment of compensation to eligible persons. The legal basis for the regulation is section 407 of the Disaster Relief Act of 1974 (42 U.S.C. 5177).

7. 20 CFR Parts 675–679—Comprehensive Employment and Training Act Regulations (CETA)

Description: These regulations describe introductory and general provisions and implement programs under Titles II, VI, and VII of CETA.

Need and Legal Basis: These CETA regulations are no longer in need of review since they have been rescinded and replaced by regulations under the Job Training Partnership Act (29 U:S.C. 1501 et seq.) at 20 CFR Parts 626–634, 652, and 684. (See entry number one.)

8. 20 CFR Part 684—Job Corps Program Under Title IV B of the Comprehensive Employment and Training Act (CETA)

Description: This regulation governs the Job Corps program under CETA.

Need and Legal Basis: This CETA regulation is no longer in need of review since it has been amended by a regulation issued under Title IV B of the Job Training Partnership Act (29 U.S.C. 1501 et seq.). (See entry number one.)

II. MINE SAFETY AND HEALTH ADMINISTRATION

1. 30 CFR Parts 55, 56, and 57—Review of Metal and Nonmetal Mine Safety and Health Standards

Description: The existing safety and health standards applicable to metal and nonmetal mines have generally been in effect for over ten years. MSHA is reviewing the standards to: (1) Eliminate unnecessary standards and recordkeeping requirements, (2) clarify and update existing standards, and (3) incorporate technological advances. Informal, public conferences were held during the Spring of 1982 on selected high priority sections. Preproposal drafts on 7 of the 8 sections of standards affected were isssued during 1983. A proposed rule for one section of standards was issued in October 1983. A preproposal draft of the remaining section and proposed rules for selected sections are expected to be issued in late 1983 through mid 1984. This project is one of MSHA's highest priorities. A regulatory flexibility analaysis will be prepared.

Need and Legal Basis: These rules are needed to provide safety and health protection for metal and nonmetal miners. The legal basis for these rules is section 101 of the Mine Act (hereinafter 30 U.S.C. 811).

2. 30 CFR Parts 75—Review of Underground Coal Mine Safety Standards

Description: MSHA has initiated a review of all safety standards for underground coal mines to: (1) Eliminate unnecessary recordkeeping requirements, (2) clarify and update existing standards, (3) eliminate unnecessary standards and (4) incorporate technological advances. MSHA published an APRM on 07/09/82 (47 FR 30025) which solicited suggestions for regulatory changes to all of the standards, but specifically roof support, explosives, and the ventilation requirements in § 75.316. The comment period was extended to 11/15/82 (47 FR 38097). Preproposal drafts regarding three areas of affected standards were issued during the spring and summer of 1983, and informal, public conferences were conducted on these sections during the summer and fall of 1983. Preproposal drafts of other sections and selected proposed rules are expected to be published during 1984. A regulatory flexibility analysis will be prepared.

Need and Legal Basis: These rules are needed to provide safety and health protection for coal miners. the legal basis for these rules is 30 U.S.C. 811.

3. 30 CFR Pars 55/56/57.19–20 through 19–29; 75.1401–1; 77.1402–1; 77.1903(b)—Wire Rope Standards

Description: These rules would revise, clarify and update MSHA's current wire rope standards with regard to requirements for the selection, installation, use, inspection, maintenance, and removal of wire ropes used in coal and metal and nonmetal mines. A NPRM was published on 11/16/82 (47 FR 51684) with comments due by 01/17/83. Public hearings were conducted during March of 1983 and the final rules are expected to be published in late 1983. MSHA has prepared a regulatory flexibility analysis, which addressed costs and benefits of the final rules.

Need and Legal Basis: These rules are needed to provide safety and health protection for the nation's coal and metal and nonmetal miners. The legal basis for these rules is 30 U.S.C. 811

4. 30 CFR Part 37—Alternate Program for Equipment Approvals

Description: The draft preproposal would provide an alternate program for the approval of certain equipment used in underground mines. Under the draft preproposal, applicants would certify to MSHA that the equipment meets the required design and test criteria, has been successfully tested, and will be produced in accordance with an accepted quality control plan. Notice of the availability of the preproposal draft was published on 03/04/83 (48 FR 9475), with comments due by 05/03/83. Informal public meetings were conducted during April of 1983. The proposed rule is expected to be published in early 1984, with public hearings to be conducted shortly after publication. The final rule is expected to be published in late 1984. A regulatory flexibility analysis will be prepared.

Need and Legal Basis: This rule would reduce the time needed to introduce new and safe technology into mines, providing safety and health protection for the nation's coal and metal and nonmetal miners. The legal basis for this rule is 30 U.S.C. 811.

5. 30 CFR Part 48—Training and Retraining of Miners

Description: MSHA proposed to review all existing metal and nonmetal and coal standards to determine if certain provisions duplicate, in whole or in part, the comprehensive training regulations which were promulgated on October 13, 1978. MSHA published an ANPRM on 03/18/83 (48 FR 11669) which invited public participation in the early stages of the Agency's review of

these regulations, and the comment period was extended to 06/17/83 (48 FR 17517).

On 07/26/83, a notice was published (48 FR 33069) which postponed, until further notice, the rulemaking action and the Regulatory Flexibility Act review on these regulations. This postponement was in direct response to comments from organizations representing major segments of the mining community that recommended MSHA postpone further rulemaking action on the training regulations until the review of some of the safety and health standards in 30 CFR Parts 55, 56, 57 and 75 is completed. The Department believes that the postponement will allow for a more careful, thorough and complete agency review of the training regulations.

6. 30 CFR Parts 15, 16, 17, 19, 24, and 25—Approval and Certification Regulations

Description: MSHA is considering changes in these regulations so that they will be consistent with substantive changes considered in the review of the metal and nonmetal mine safety and health standards and the coal mine safety standards currently in process. Preproposal drafts are expected to be issued during 1984. A regulatory flexibility analysis will be prepared.

Need and Legal Basis: The present regulations do not incorporate technological advances or reflect state-of-the-art technology concerning the approval and certification of explosives and blasting agents. These rules will eliminate unnecessary standards, clarify and update existing standards, and incorporate changes proposed during the review of the metal and nonmetal mine safety and health standards and the coal mine safety standards currently in process. The legal basis for these regulations is 30 U.S.C. 811.

III. EMPLOYMENT STANDARDS ADMINISTRATION

1. 29 CFR Part 785—Hours Worked

Description: These regulations set forth the principles involved in determining what constitutes working time under the Fair Labor Standards Act (FLSA) and other labor standards statutes administered by the Wage and Hour Division.

Need and Legal Basis: These regulations are needed in order to determine hours of work for the purpose of applying the minimum wage and overtime pay provisions of the FLSA and other laws with similar provisions. The legal basis for these regulations is 29 U.S.C. 201–209.

2. 29 CFR Part 788—Overtime Exemption for Employees of Certain Forestry or Logging Operations Under Section 13(b)(28) of the Fair Labor Standards Act

Description: These regulations set forth criteria for determining the application of the Fair Labor Standards Act (FLSA) overtime pay exemption for employees employed in certain forestry or logging operations by an employer who employs not more than eight employees in such operations.

Need and Legal Basis: These regulations are needed in order to define the employers who come within the scope of the overtime pay exemption under section 13(b)(28) of the FLSA and to define the forestry or logging operations which must be performed by an employee in order for this overtime pay exemption to apply. The legal basis for these regulations is 29 U.S.C. 201–219.

3. 29 CFR Part 793—Overtime Exemption for Certain Radio and Television Station Employees Under Section 13(b)(9) of the Fair Labor Standards Act

Description: These regulations set forth criteria for determining the application of the Fair Labor Standards Act (FLSA) overtime pay exemption for announcers, news editors, and chief engineers employed by certain small radio and television stations. The review of these regulations has been continued from the Department's 1983 review.

Need and Legal Basis: These regulations are needed in order to define the small market radio and television stations which come within the scope of section 13(b)(9) of the FLSA and to define the occupations of announcer, news editors, and chief engineer for the purpose of applying this overtime pay exemption to such employees. The legal basis for these regulations is 29 U.S.C. 201–219.

4. 29 CFR Part 794—Partial Overtime Exemption for Employees of Wholesale or Bulk Petroleum Distributors Under Section 7(b)(3) of the Fair Labor Standards Act

Description: These regulations set forth criteria for determining the application of the Fair Labor Standards Act (FLSA) partial overtime pay exemption for employees of an independently owned and controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products.

Need and Legal Basis: These regulations are needed in order to define the wholesale or bulk petroleum enterprises which come within the scope of section 7(b)(3) of the FLSA and to define the conditions under which this partial overtime pay exemption may apply to employees of such enterprises. The legal basis for these regulations is 29 U.S.C. 201–219.

IV. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

1. 29 CFR Part 1926, Subpart H—Materials Handling, Storage, Use, and Disposal

Description: The present standards address general requirements for material storage, rigging equipment for material handling, and the disposal of waste materials.

Need and Legal Basis: This standard is needed because of the occupational hazards related to the improper use of material handling equipment, inadequate maintenance, and the improper methods of material storage and waste disposal. The legal basis for this rule is 29 U.S.C. 655.

2. 29 CFR Part 1926, Subpart I—Tools—Hand and Power

Description: The present standards address the design, maintenance, and use of tools such as hand tools, power operated hand tools, abrasive wheels and tools, woodworking tools, and jacks (lever and ratchet, screen and hydraulic).

Need and Legal Basis: This standard is needed because of the occupational hazards related to the use, maintenance, and failures of such equipment. The legal basis for this rule is 29 U.S.C. 655.

3. 29 CFR Part 1926, Subpart J—Welding and Cutting

Description: The present standards address the use, design, maintenance of equipment related to gas welding and cutting, arc welding and cutting, fire prevention, ventilation, and welding, cutting, and heating in way of preservative coatings.

Need and Legal Basis: This standard is needed because of the improper use, handling, maintenance, and work practices related to welding and cutting operations. The legal basis for this rule is 29 U.S.C. 655.

4. 29 CFR Part 1926, Subpart R—Steel Erection

Description: The present standards address structural steel assembly, flooring requirements, bolting, riveting, fitting-up, and plumbing-up during the steel erection operation.

Need and Legal Basis: This standard is needed because of the occupational

hazards related to steel erection. The legal basis for this rule is 29 U.S.C. 655.

5. 29 CFR Part 1926, Subpart V—Power Transmission and Distribution

Description: Present standards address work practices involved in the construction of power transmission and distribution lines and equipment. Requirements cover tools and protective equipment, material handling, grounding, overhead and underground lines, and substation work.

Need and Legal Basis: These rules are needed primarily to protect employees from the hazards of exposed energized parts when the employees are engaged in construction work on power transmission and distribution lines and equipment. The legal basis for this rule is 29 U.S.C. 655.

6. 29 CFR Part 1928, Subpart B—Applicability of Standards

Description: This Subpart is not a standard. It lists those standards in 29 CFR Part 1910 which are incorporate into Part 1928 as standards applicable to agricultural operations. Those standards are: Section 1910.111 (a) and (b)—Anhydrous Ammonia, Section 1910.142—Temporary Labor Camps, Section 1910.145—Slow-Moving Vehicles, and Section 1910.266—Pulpwood Logging.

Need and Legal Basis: This Subpart is necessary to extend coverage of the listed standards to agricultural workplaces. The legal basis for this rule is 29 U.S.C. 655.

7. 29 CFR Part 1928, Subpart C—Roll-Over Protective Structures

Description: The present standard requires the use of roll-over protective structures (ROPS) on agricultural tractors manufactured after October 25, 1976, with certain exceptions. Also contained in this subpart are test procedures and performance requirements for the two types of agricultural tractor ROPS, protective frames and protective enclosures. This standard was originally promulgated in 1975, and was based in the most part on voluntary standards of the American Society of Agricultural Engineers.

Need and Legal Basis: This rule is needed to protect operators of farm tractors from the hazards of roll-overs. The legal basis for this rule is 29 U.S.C. 655.

8. 28 CFR Part 1928, Subpart D—Guarding of Farm Field Equipment, Farmstead Equipment, and Cotton Gins

Description: The present standard requires the guarding of hazardous mechanical components of farm equipment, including rotating shafts, pulleys, gears, reciprocating parts and other hazards. The standard was promulgated in 1976 and generally applies to equipment manufactured after October 25, 1976. Power take-off shafts are required to be guarded regardless of the date of manufacture. The standard is largely based on voluntary standards of the American Society of Agricultural Engineers.

Need and Legal Basis: This rule is needed to protect operators of farm equipment from the hazards presented by moving mechnical parts. The legal basis for this rule is 29 U.S.C. 655.

9. 29 CFR 1910.1003–4-Nitrobiphenyl

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to 4-nitrobiphenyl, a carcinogenic chemical. The standard prohibits the use of 4-nitrobiphenyl in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas.

The standard also contains other requirements necessary for protecting the health of workers working in establishments where 4-nitrobiphenyl is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to 4-nitrobiphenyl. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

10. 29 CFR 1910.1004—Alpha-Naphthylamine

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to alpha-naphthylamine, a carcinogenic chemical. The standard prohibits the use of alpha-naphthylamine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where alpha-naphthylamine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to alpha-naphthylamine. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Scheduled for Review of Rules as published on June 30, 1981)

11. 29 CFR 1910.1006—Methyl Chloromethyl Ether

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to methyl chloromethyl ether, a carcinogenic chemical. The standard prohibits the use of methyl chloromethyl in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where methyl chloromethyl ether is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to methyl chloromethyl ether. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

12. 29 CFR 1910.1007—3,3'-Dichlorobenzidine (and Its Salts)

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to 3,3'-dichlorobenzidine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where 3,3'-dichlorobenzidine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to 3,3'-

dichlorobenzidine. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

13. 29 CFR 1910.1008—Bis-Chloromethyl Ether

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to bis-chloromethyl ether, a carcinogenic chemical. The standard prohibits the use of bis-chloromethyl ether in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where bis-chloromethyl ether is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to bis-chloromethyl ether. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

14. 29 CFR 1919.1009—Beta-Naphthylamine

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to beta-naphthylamine, a carcinogenic chemical. The standard prohibits the use of beta-naphthylamine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where beta-naphthylamine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to beta-naphthylamine. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

15. 29 CFR 1910.1010—Benzidine

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to benzidine, a carcinogenic chemical. The standard prohibits the use of benzidine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where benzidine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to benzidine. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

16. 29 CFR 1910.1011—4-Aminodiphenyl

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to 4-aminodiphenyl, a carcinogenic chemical. The standard prohibits the use of 4-aminodiphenyl in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where 4-aminodiphenyl is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to 4-aminodiphenyl. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

17. 29 CFR 1910.1012—Ethyleneimine

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to ethyleneimine, a carcinogenic chemical. The standard prohibits the use of ethyleneimine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where ethyleneimine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to ethyleneimine. The legal basis for the standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

18. 29 CFR 1910.1013—Beta Propiolactone

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to beta-propiolactone, a carcinogenic chemical. The standard prohibits the use of beta-propiolactone in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where beta-propiolactone is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to beta-propiolactone. The legal basis for this standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

19. 29 CFR 1910.1014—2-Acetylaminofluorene

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to 2-acetylaminofluorene, a carcinogenic chemical. The standard prohibits the use of 2-acetylaminofluorene in open vessel system operations and requires employers to establish regulated areas

when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where 2-acetylaminofluorene is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to 2-acetylaminofluorene. The legal basis for this standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

20. 29 CFR 1910.1015—4-Dimethylaminoazobenzene

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure to 4-dimethylaminoazobenzene, a carcinogenic chemical. The standard prohibits the use of 4-dimethylaminoazobenzene in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establishments where 4-dimethylaminoazobenzene is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to 4-dimethylaminoazobenzene. The legal basis for this standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules and published on June 30, 1981)

21. 29 CFR 1910.1016—n-Nitrosodimethylamine

Description: This standard, promulgated in 1973, is designed to protect employees from adverse health effects associated with exposure in n-nitrosodimethylamine, and carcinogenic chemical. The standard probibits the use of n-nitrosodimethylamine in open vessel system operations and requires employers to establish regulated areas when the chemical is used in closed systems. Employers are required to provide training and medical surveillance for employees assigned to work in regulated areas. The standard also contains other requirements necessary for protecting the health of workers working in establisments where n-nitrosodimethylamine is manufactured, processed, repackaged, released, handled or stored.

Need and Legal Basis: This standard is needed to protect employees from developing cancer as a result of their occupational exposure to n-nitrosodimethylamine. The legal basis for this standard is 29 U.S.C. 655.

(This item was not included in the Department's Ten-Year Schedule for Review of Rules as published on June 30, 1981)

V. LABOR-MANAGEMENT SERVICES ADMINISTRATION, PENSION AND WELFARE BENEFIT PROGRAMS

1. 29 CFR 2520.101–1—Duty of Reporting and Disclosure

Description: This is a general regulation stating where in the CFR the more detailed reporting and disclosure requirements can be found.

Need and Legal Basis: Section 101 of ERISA describes the duty of a plan administrator to file certain reports with the Secretary and to disclose certain information and reports to plan participants and beneficiaries. This regulation was issued under the authority of 29 U.S.C. 1021 and 1135 (sections 101 and 505 of ERISA).

2. 29 CFR 2520.102–1—Plan Description and 29 CFR 2520.104a–2, Plan Description Reporting Requirements

These regulations permit plans to satisfy the ERISA requirement to file plan descriptions and amendments thereto with the Department by filing copies of the summary plan description (SPD) and summaries of changes thereto. Prior to 1980, plans had to file both a plan description, form EBS–1, and a summary plan description (SPD).

Need and Legal Basis: The regulations are needed so that plans can file one document instead of two, thereby simplifying paperwork. The regulations were issued under the authority of 29 U.S.C. 1021, 1022, 1029, 1030, and 1135 (sections 101, 102, 109, 110 and 505 of ERISA).

3. 29 CFR 2520.102–2—Style and Format of Summary Plan Description, and 29 CFR 2520.102.2–3, Contents of Summary Plan Description.

Description: In combination, these two regulations describe the content and format requirements for the summary plan description (SPD). The regulations state that the SPD must be comprehensive and must be understandable to the average plan participant. It cannot be misleading. It also must include certain specified information.

Need and Legal Basis: These regulations were needed in order to provide plans with definitive guidance with respect to the information required to be contained in the SPD, and the style and format of that information, as required under 29 U.S.C. 1022 (section 102 of ERISA). The regulations were issued under the authority of 29 U.S.C. 1022, 1024, 1029, and 1135 (sections 102, 104, 109 and 505 of ERISA).

4. 29 CFR 2520.102–4—Option for Different Summary Plan Descriptions

Description: This regulation provides administrators of plans covering different classes of participants (e.g. salaried v. hourly employees with varying benefits) the option of preparing different SPDs for the various classes of participants.

Need and Legal Basis: This regulation is needed to provide plan administrators with the flexibility to develop various SPDs for the same plan, and thereby avoid possibly confusing the various classes of participants covered under the Plan. The regulation was issued under 29 U.S.C. 1024, 1030, and 1135 (sections 104, 110 and 505 of ERISA).

5. 29 CFR 2520.102–5—Limited Exemption With Respect to Summary Plan Descriptions of Welfare Plans Providing Benefits Through a Qualified Health Maintenance Organization

Description: The SPD of a welfare plan under which some or all of the benefits are provided through membership in a qualified health maintenance organization (HMO) need not include certain information about the HMO if a notice is included in the SPD of the availability of such information from the plan administrator upon request.

Need and Legal Basis: The regulation

is intended to avoid duplicative or otherwise unnecessary requirements which might result from the interaction of ERISA and the HMO Act. The regulation was issued under the authority of 29 U.S.C. 1024, 1029, 1133, and 1135, (sections 104, 109, 503, and 505 of ERISA).

6. 29 CFR 2520.104–5—Deferral of Certain Reporting and Disclosure Requirements Relating to the Summary Plan Description for Welfare Plans and 29 CFR 2520.104–6, Deferral of Certain Reporting and Disclosure Requirements for Pension Plans

Description: These regulations deferred the date on which plan administrators had to distribute the initial SPD to participants and beneficiaries and file a copy with the Department. Different dates were established for several classes of plans. Generally, the regulations deferred compliance with the SPD requirements to November 16, 1977.

Need and Legal Basis: The regulations are needed for reference purposes for enforcement and for timing of subsequent filing dates. The regulations were issued under the authority of 29 U.S.C. 1021, 1022, 1024, 1030, and 1135 (sections 101, 102, 104, 110 and 505 of ERISA).

7. 29 CFR 2520.104–28, Extension of Time for Filing and Disclosure of the Initial Summary Plan Description

Description: This regulation provided an extension for good cause for up to 60 days for single employer plans and for up to 90 days for multiemployer plans for filing and furnishing the initial SPD.

Need and Legal Basis: This regulations is needed for reference purposes for enforcement and for timing subsequent filing dates. The regulation was issued under the authority of 29 U.S.C. 1024, 1030, and 1135 (sections 104, 110 and 505 of ERISA).

8. 29 CFR 2520.104a–1—Filing With the Secretary of Labor

Description: This is a statement of the general obligations of plan administrators under Part 1 of ERISA to file documents with the Secretary of Labor. It also provides cross references to exemptions available to welfare plans and an alternative method of compliance for certain pension plans.

Need and Legal Basis: This regulation is needed to apprise plan administrators that the requirement to file documents with the Secretary of Labor will be met if the plan administrator complies with the regulations under Subpart E of Part 2520. The regulation was issued under the authority of 29 U.S.C. 1024 and 1135 (sections 104 and 505 of ERISA).

9. 29 CFR 2520.104a–3—Summary Plan Description, and 29 CFR 2520.104a–4, Material Modifications to the Plan and Changes in Plan Description Information

Description: These regulations provide instructions to plan administrators regarding where and when to file copies of SPDs and summaries of changes with the Secretary.

Need and Legal Basis: The regulations are needed to insure that plan administrators understand what to file and when to file the SPDs and summaries of changes with the Department. These regulations were issued under the authority of 29 U.S.C. 1024 and 1135 (sections 104 and 505 of ERISA).

10. 29 CFR 2520.104b–1—Disclosure

Description: This regulation describes acceptable methods of meeting the ERISA disclosure obligations. The regulation provides guidance on: (1) How to furnish required documents to participants and beneficiaries, (2) how to provide documents to participants when requested, and (3) how documents are to be made available for examination by participants and beneficiaries.

Need and Legal Basis: These regulations are needed to clarify which alternative ways of satisfying the disclosure requirements are acceptable to the Secretary of Labor. This regulation was issued under the authority of 29 U.S.C. 1024 and 1135 (sections 104 and 505 of ERISA).

11. 29 CFR 2520.104b-2—Summary Plan Description

Description: This regulation sets forth the time frames within which plan administrators must provide SPDs to participants and beneficiaries.

Need and Legal Basis: The regulation is needed to provide clarification of section 104(b)(1) of ERISA. The regulation was issued under the authority of 29 U.S.C. 1021, 1024 and 1135 (sections 101, 104, 505 or ERISA).

12. 29 CFR 2520.104b-3—Summary of Material Modifications to the Plan and Changes in the Information Required to be Included in the Summary Plan Description

Description: This regulation sets forth the time frames within which plan administrators must provide summaries of plan changes to participants and beneficiaries receiving benefits.

Need and Legal Basis: The regulation is needed to provide clarification of the time frames for providing participants and beneficiaries with information regarding plan changes. This regulation was issued under the authority of 29 U.S.C. 1024 and 1135 (sections 104 and 505 of ERISA).

13. 29 CFR 2520.104b-4—Alternative Methods of Compliance for Furnishing the Summary Plan Description, and Summaries of Material Modifications of a Pension Plan to a Retired Participant, a Separated Participant with Vested Benefits and a Beneficiary Receiving Benefits

Description: This regulation provides alternative ways of meeting the SPD disclosure requirement for those individuals who are receiving benefits or who have separated from employment with vested benefits. These individuals are required, under the alternative, to be furnished only that SPD information which affected their benefits under the Plan.

Need and Legal Basis: This regulation was issued under the authority of 29 U.S.C. 1022, 1024, 1029 and 1030 (sections 102, 104, 109, and 110 of ERISA).

14. 29 CFR 2520.104b-5—ERISA Notice

Description: This regulation, issued in April 1976 as an interim disclosure requirement, provided administrators of plans in existence prior to December 2, 1976, with a means by which to defer the initial distribution and filing of the summary plan description (SPD).

Need and Legal Basis: The regulation is now necessary for reference purposes. The regulation was issued under the authority of 29 U.S.C. 1024, 1029, and 1030 (sections 104, 109, and 110 of ERISA).

Signed this 24th day of February 1984, at Washington, D.C.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84–5517 Filed 3–1–84; 8:45 am]

BILLING CODE 4510–23–M

federal register

Friday
March 2, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. No. 1076]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 24, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1076

ISSUED FEBRUARY 24, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-DELTA ENERGY RESOURCES INC				RECEIVED:	02/06/84	JA: LA			
8419512	84-0052	1705320674		102-4		CARL HOPPE #1	NORTH WOODLAWN	0.0	LOUISIANA GAS SYS
MISSISSIPPI OIL & GAS BOARD									
-ADAMS EXPLORATION CO				RECEIVED:	02/06/84	JA: MS			
8419518	2-84-580	2304920082		107-DP		NEWMAN #1-34	NEWMAN	1283.0	
-INDREX INC				RECEIVED:	02/06/84	JA: MS			
8419519	3-84-580	2304920099		107-DP		TOMPKINS #1-33	NEWMAN SEC 33-T15N-R5	2200.0	
MONTANA BOARD OF OIL & GAS CONSERVATION									
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/06/84	JA: MT			
8419511	11-83-157	2509121502		102-4		WILLIE BEE #1	DWYER	100.0	PHILLIPS PETROLEU
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BENNETT PETROLEUM CORP				RECEIVED:	02/06/84	JA: NY			
8419521	7157	3105113868	D	107-TF		KENNETH MCBRIDE #1 31-051-13868	UNNAMED	65.0	COLUMBIA GAS TRAN
8419520	7158	3105113979	D	107-TF		KENNETH MCBRIDE #2 31-051-13979	UNNAMED	105.0	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC				RECEIVED:	02/06/84	JA: NY			
8419540	6066	3101317986		103	107-TF	KAPROLAT 1	LAKESHORE	12.0	NATIONAL FUEL GAS
8419541	6068	3101318524		103	107-TF	R PISKORZ #1	SHERMAN	12.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	02/06/84	JA: NY			
8419522	5921	3102910959		108		CLARENCE HEARY N-1342	WILDCAT	14.0	GENERAL SYSTEM PU
-DON-BESS ENERGY DEVELOPMENT CO				RECEIVED:	02/06/84	JA: NY			
8419544	6063	3100316293		108		FORMAN #1	ALLEGANY	76.5	NATIONAL FUEL GAS
8419543	6064	3100316338		108		FORMAN #2	ALLEGANY	76.5	NATIONAL FUEL GAS
8419542	6065	3100316441		108		FORMAN #3	ALLEGANY	76.5	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	02/06/84	JA: NY			
8419528	6004	3101313217		108		CALDWELL #1	LAKESHORE	7.5	NATIONAL FUEL GAS
8419527	6008	3101315320		108		J SCHUSTER #1	LAKESHORE	8.2	NATIONAL FUEL GAS
8419525	6005	3101312917		108		MASON #2	LAKESHORE	7.2	NATIONAL FUEL GAS
8419524	6006	3101313982		108		PROCTOR #1	LAKESHORE	7.9	NATIONAL FUEL GAS
8419526	6010	3101314429		108		R WASSINK #1	WILDCAT	14.3	NATIONAL FUEL GAS
8419523	6007	3101313983		108		RIPLEY TOWNSHIP #1	LAKESHORE	10.4	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	02/06/84	JA: NY			
8419531	5894	3102915531		103	107-TF	J FOX #1	ORCHARD PARK	125.0	NATIONAL FUEL GAS
-SENECA RESOURCES CORP				RECEIVED:	02/06/84	JA: NY			
8419530	5994	3100917220		107-TF		C PAGETTE #3 X-223	WILDCAT	75.0	COLUMBIA GAS TRAN
8419529	5996	3100917179		107-TF		J STARK X-222	WILDCAT	28.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED:	02/06/84	JA: NY			
8419534	6042	3100916716		103	107-TF	BERTHA MEYERS #1 (LP-5)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419532	6038	3100916849		103	107-TF	BERTHA MEYERS #2 (LP-6)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419537	6036	3100916718		103	107-TF	DAN E MILLER #1 (LP-1)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419536	6044	3100916784		103	107-TF	ISAAC MILLER #1 (LP/7)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8419535	6050	3100916782		103		107-TF JEFFREY E BROMLEY #1 (LP-11)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419533	6040	3100916717		103		107-TF MAHLON HOCHSTETLER #1 (LP-4)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419538	6046	3100916783		103		107-TF NOAH C KAUFMAN #1 (LP-8)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
8419539	6048	3100916719		103		107-TF VEDDER STANKEY JR #1 (LP-9)	WILDCAT FIELD	20.0	COLUMBIA GAS TRAN
OHIO DEPARTMENT OF NATURAL RESOURCES									
-BLAUSER WELL SERVICE INC				RECEIVED:	02/07/84	JA: OH			
8419681		3416725131		107-DV		DAVID D DUNBAR #4	FAIRFIELD TOWNSHIP	0.5	COLUMBIA GAS TRAN
-BRADEN DEVELOPMENT COMPANY				RECEIVED:	02/07/84	JA: OH			
8419682		3416120996		108		BRADEN PRYOR #1	LUDLOW TWP	3.0	RIVER GAS CO
-CARL E SMITH PETROLEUM INC				RECEIVED:	02/07/84	JA: OH			
8419683		3400922604		107-DV		E SHUTTS #251	CARTHAGE	1.3	COLUMBIA GAS TRAN
-DONALD P SHANAHAN				RECEIVED:	02/07/84	JA: OH			
8419684		3411522473		108		ALBERT FINKEL 1-C	BEVERLY	2.1	EAST OHIO GAS CO
-ENERGY DEVELOPMENT CORP				RECEIVED:	02/07/84	JA: OH			
8419685A		3405520148	D	103		MILLER WELL #5	PARKMAN	14.0	COLUMBIA GAS TRAN
8419685B		3405520148		107-TF		MILLER WELL #5	PARKMAN	14.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	02/07/84	JA: OH			
8419686		3400922770		103	107-TF	OHIO MINING #5	TRIMBLE	18.2	
8419687		3400922879		103	107-TF	PEABODY COAL #27D	DOVER	18.2	
8419688		3400922893		103	107-TF	PEABODY COAL #29D	DOVER	27.3	
-GREAT SALT LAKE DRILLING ASSOC				RECEIVED:	02/07/84	JA: OH			
8419689		3416726517		107-DV		WEST/USA #1	INDEPENDENCE	12.0	COLUMBIA GAS TRAN
8419690		3416726766		107-DV		YESTER/USA #1	INDEPENDENCE	3.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	02/07/84	JA: OH			
8419698		3410522785		107-DV		ALBERT R DANGELO #1	OLIVE	7.0	COLUMBIA GAS TRAN
8419696		3410522729		107-DV		DAVID A WOLFE #1	LETART	8.0	COLUMBIA GAS TRAN
8419693		3410522717		107-DV		DOROTHY STEINBERGER ETAL #1	LEBANON	8.0	COLUMBIA GAS TRAN
8419695		3410522728		107-DV		EARLY ROUSH #1	LETART	8.0	COLUMBIA GAS TRAN
8419691		3410522544		107-DV		F J STOBART-CROSS HEIRS #1	LEBANON	8.0	COLUMBIA GAS TRAN
8419697		3410522770		107-DV		GRUESER-FRECKER #1	CHESTER	9.0	COLUMBIA GAS TRAN
8419705		3410522815		107-DV		HARRY D & GEORGE HOLTER #1	SUTTON	0.0	COLUMBIA GAS TRAN
8419699		3410522799		107-DV		JANICE WEBER-CHARLES RITCHIE #2	CHESTER	9.0	COLUMBIA GAS TRAN
8419702		3410522805		107-DV		JANICE WEBER-CHARLES RITCHIE #3	CHESTER	9.0	COLUMBIA GAS TRAN
8419701		3410522801		107-DV		JANICE WEBER-CHARLES RITCHIE #4	CHESTER	9.0	COLUMBIA GAS TRAN
8419703		3410522806		107-DV		JANICE WEBER-CHARLES RITCHIE #5	CHESTER	9.0	COLUMBIA GAS TRAN
8419704		3410522807		107-DV		JANICE WEBER-CHARLES RITCHIE #6	CHESTER	8.0	COLUMBIA GAS TRAN
8419700		3410522800		107-DV		JANICE WEBER-CHARLES RITCHIE #7	CHESTER	9.0	COLUMBIA GAS TRAN
8419706		3410522832		107-DV		JANICE WEBER-CHARLES RITCHIE #8	CHESTER	9.0	COLUMBIA GAS TRAN
8419694		3410522727		107-DV		JOHN T WOLFE TRUSTEE #1	LETART	9.0	COLUMBIA GAS TRAN
8419692		3410522704		107-DV		MARION J EASTERDAY #1	SUTTON	8.0	COLUMBIA GAS TRAN
-JADOIL INC				RECEIVED:	02/07/84	JA: OH			
8419707		3408323367		107-DV		C E PHILLIPS #2	CLINTON	4.5	
-JAMES E DIDDLE				RECEIVED:	02/07/84	JA: OH			
8419708		3410522789		107-DV		AGNES BROWN #5	CHESTER	8.0	COLUMBIA GAS TRAN
-JONSU OIL CORP				RECEIVED:	02/07/84	JA: OH			
8419714		3408923480		108		BOOTH-MEARA #1		4.0	COLUMBIA GAS TRAN
8419715		3408923563		108		FRED MOORE #1		10.0	COLUMBIA GAS TRAN
8419716		3408923744		108		HOLTON #1		10.0	COLUMBIA GAS TRAN
8419711		3403124319		108		KELLY #1		5.0	COLUMBIA GAS TRAN
8419718		3408923854		108		MORNINGSTAR #2		6.0	COLUMBIA GAS TRAN
8419709		3403124112		108		R WRIGHT #1		5.0	COLUMBIA GAS TRAN
8419710		3403124125		108		R WRIGHT #2		4.0	COLUMBIA GAS TRAN
8419713		3403124559		108		RITTER #1		10.0	COLUMBIA GAS TRAN
8419717		3408923757		108		THOMAS #1		4.0	COLUMBIA GAS TRAN
8419712		3403124321		108		TOM JOHNSTON #1		10.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	02/07/84	JA: OH			
8419728		3415123013		108		M & L GARMAN JR #1		8.8	COLUMBIA GAS TRAN
-MAJ				RECEIVED:	02/07/84	JA: OH			
8419726		3414520321		107-DV		HENRY & FRANCIS HINZE #1	MADISON	0.4	TENNESSE GAS PIPE
8419727		3414520327		107-DV		HERMAN & RUTH SWORDS #1	MADISON	0.5	TENNESSE GAS PIPE
8419721		3413120080		107-DV		JOHN & RUTH BROWN #1	MARION	0.5	TENNESSEE GAS PIP
8419724		3414520301		107-DV		LUTHER & MATILDA ISON #1	MADISON	0.4	TENNESSEE GAS PIP
8419725		3414520303		107-DV		LUTHER & MATILDA ISON #2	MADISON	0.4	TENNESSEE GAS PIP
8419720		3413120079		107-DV		OTTO & JANET BEHNER #1	UNION	0.4	TENNESSEE GAS PIP
8419723		3413120082		107-DV		ROY VANCIL BROWN #1	MARION	0.4	TENNESSEE GAS PIP
8419719		3407920142		107-DV		SAMUEL & ARLENE WILLIAMS #1	SCIOTO	0.4	TENNESSEE GAS PIP
8419722		3413120081		107-DV		THOMAS & JANET SALISBURY #1	MARION	0.5	TENNESSEE GAS PIP
-OXFORD OIL CO				RECEIVED:	02/07/84	JA: OH			
8419744		3416727533		107-DV		LUCIAN SMITH #1	SALEM	10.0	
8419745		3416727595		107-DV		WARREN DRILLING COMPANY #1	AURELIUS	10.0	
-SANTA FE DRILLING CO INC				RECEIVED:	02/07/84	JA: OH			
8419737		3416724400		107-TF		DAVID AND BARBARA ERB #1	SALEM	50.0	COLUMBIA GAS TRAN
8419741		3416725681		107-TF		ELAINE FLEEMAN #1	LIBERTY	50.0	COLUMBIA GAS TRAN
8419757		3416724025		107-RT		GLEN AND HELEN FULTON #3	SALEM	50.0	COLUMBIA GAS TRAN
8419731		3416724026		107-RT		GLENN AND HELEN FULTON WELL #2	SALEM	50.0	COLUMBIA GAS TRAN
8419735		3416724208		107-RT		H E BYERS/GLADYS WAGNER #1	SALEM	50.0	COLUMBIA GAS TRAN
8419730		3416723970		107-RT		JAMES & MARILYN MILLS #2	SALEM	50.0	COLUMBIA GAS TRAN
8419740		3416725423		107-TF		KENNETH & WILMA KATHARY #1	FEARING	50.0	COLUMBIA GAS TRAN
8419739		3416724882		107-TF		LAURA BARTLETT FAGG/STEVEN FAGG #1	SALEM	50.0	COLUMBIA GAS TRAN
8419729		3412122297		107-TF		LEROY SCHALMO #1	ELK	50.0	COLUMBIA GAS TRAN
8419736		3416724323		107-TF		LESLIE FULTON #3	SALEM	30.0	COLUMBIA GAS TRAN
8419732		3416722403		107-RT		RUBY MILLER #1	SALEM	50.0	COLUMBIA GAS TRAN
8419738		3416724466		107-TF		WASHINGTON FISH & GAME ASSOCIATION	SALEM	50.0	COLUMBIA GAS TRAN
8419734		3416724034		107-RT		WYONA ANDERSON #1	WASHINGTON	50.0	COLUMBIA GAS TRAN
8419733		3416724032		107-RT		WYONA ANDERSON #3	SALEM	20.0	COLUMBIA GAS TRAN
-SPRING INDUSTRIES				RECEIVED:	02/07/84	JA: OH			
8419742		3415721964		108		SPRING INDUSTRIES #5	GOSHEN	0.0	EAST OHIO GAS CO
-TECHNOLOGY DEVELOPMENT INC (TDI)				RECEIVED:	02/07/84	JA: OH			
8419743		3403720362		107-DV		ATER #1	WINDSOR	15.0	
-WENTEX INTERNATIONAL INC				RECEIVED:	02/07/84	JA: OH			
8419747		3412726104		107-TF		BREESE #1	BEARFIELD	70.0	COLUMBIA GAS TRAN
8419748		3412726147		107-TF		MASTERSON #5	BEARFIELD	70.0	COLUMBIA GAS TRAN
8419746		3412726103		107-TF		STONEBURNER #1	BEARFIELD	70.0	COLUMBIA GAS TRAN
-WHITACRE ENTERPRISES				RECEIVED:	02/07/84	JA: OH			
8419749		3411122894		107-DV		C KNOWLTON #1	WASHINGTON	10.0	
8419752		3411122996		107-DV		C KNOWLTON #2	WASHINGTON	7.0	
8419751		3411122985		107-DV		D BEARDMORE #1	WASHINGTON	14.0	
8419756		3411123022		107-DV		D PLATT #1	WASHINGTON	18.0	
8419755		3411123010		107-DV		G WECKBACHER #2	WASHINGTON	16.0	
8419753		3411122998		107-DV		G WECKRACHER #1	WASHINGTON	11.0	
8419750		3411122950		107-DV		H MCDONALD #3	WASHINGTON	18.0	
8419754		3411123004		107-DV		R PARKS #1	WASHINGTON	0.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	02/06/84	JA: OK			
8419623	26201	3501795005		103		HURST UNIT #2	MORROW FORMATION	0.0	OKLAHOMA GAS & EL
-APACHE CORPORATION				RECEIVED:	02/06/84	JA: OK			
8419673	26272	3514920408		103		CITY OF CLINTON #2-15		179.0	CALICHE PIPELINE
8419674	26386	3514920398		103		LEVERTON #2-14		71.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/06/84	JA: OK			
8419680	22138	3508520377		102-4		R A HEFNER JR UN #2-L	WEST ENVILLE	73.0	
-ARKLA EXPLORATION COMPANY				RECEIVED:	02/06/84	JA: OK			
8419632	24185	3507920482		102-4		WHITEHEAD #1	KINTA	500.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	02/06/84	JA: OK			
8419621	26245	3507720284		103		KENNEDY "B" #2	WILBURTON	350.0	ARKANSAS LOUISIAN
-BILL G ANDRESS				RECEIVED:	02/06/84	JA: OK			
8419627	25653	3512121022		103		BOWLBY 3-3	N E CANADIAN	219.0	TRANSOK PIPE LINE
-BILL WADLEY & SON DRILLING CO				RECEIVED:	02/06/84	JA: OK			
8419644	26325	3511100000		103		WINN 1-B	WILSON	155.9	PHILLIPS PETROLEU
-BOSWELL ENERGY CORP				RECEIVED:	02/06/84	JA: OK			
8419655	24286	3501320055		102-4		CANARD #1	WILDCAT	0.0	LONE STAR GAS CO
-BUNKER EXPLORATION CO				RECEIVED:	02/06/84	JA: OK			
8419629	23711	3504900000		102-4		NELL-MARIANNE #1-1	SOUTH FOSTER	350.0	SOHIO PETROLEUM C
-DAVIS OIL COMPANY				RECEIVED:	02/06/84	JA: OK			
8419640	24405	3501722329		102-4		CECIL #1		48.5	PHILLIPS PETROLEU
8419639	24404	3501722403		102-4		ELSIE BROOKS #1		27.4	PHILLIPS PETROLEU
8419664	24392	3501722457		102-4		ELSIE BROOKS #2		21.9	PHILLIPS PETROLEU
8419657	24399	3501722350		102-4		EPISCOPAL CHURCH #1		40.2	PHILLIPS PETROLEU
8419660	24396	3501721714		102-4		LAUB #1		0.0	PHILLIPS PETROLEU
8419638	24403	3501722394		102-4		LAUB #2		32.9	PHILLIPS PETROLEU
8419659	24397	3501722415		102-4		LORETTA #1		18.5	PHILLIPS PETROLEU
8419636	24401	3501722416		102-4		MARCELLUS #1		9.1	PHILLIPS PETROLEU
8419635	24400	3501722493		102-4		MARCELLUS #2		7.3	PHILLIPS PETROLEU
8419661	24395	3501700000		102-4		MILLER #1		94.9	PHILLIPS PETROLEU
8419637	24402	3501722372		102-4		O U #1		29.9	PHILLIPS PETROLEU
8419662	24394	3501722473		102-4		O U #2		21.9	PHILLIPS PETROLEU
8419658	24398	3501722501		102-4		RECTOR #1		0.0	PHILLIPS PETROLEU
8419663	24393	3501722070		102-4		WIEDEMANN #1		51.1	PHILLIPS PETROLEU
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/06/84	JA: OK			
8419628	25048	3500935579		108-PB		STATE OF OKLAHOMA #1	ERICK SOUTH - BROWN D	20.0	EL PASO NATURAL G
8419641	24754	3500920133		108-PB		VANNERSON #2	ERICK SOUTH - BROWN D	23.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	02/06/84	JA: OK			
8419649	27170	3514920356		107-DP		S W DILL CITY UNIT #1	SOUTHWEST DILL CITY	307.0	
-FALCON PETROLEUM COMPANY				RECEIVED:	02/06/84	JA: OK			
8419633	24248	3500722244		102-4		VAN HYNING #1	DOMBEY (MORROW)	0.0	PANHANDLE EASTERN
-FLINT J A				RECEIVED:	02/06/84	JA: OK			
8419643	26290	3506321824		103		BELL #1	YEAGER	38.0	MEGA NATURAL GAS
-FORTUNA ENERGY CORP				RECEIVED:	02/06/84	JA: OK			
8419654	24242	3512121028		103		SEGELQUIST #1	S ALDERSON	730.0	OKLAHOMA GAS & EL
-FOUR STAR PETROLEUM INC				RECEIVED:	02/06/84	JA: OK			
8419645	26332	3510900000		103		FRAZIER #1-11	WITCHER	108.0	CHAMPLIN PETROLEU
-FUNK EXPLORATION INC				RECEIVED:	02/06/84	JA: OK			
8419630	21221	3500722261		102-4		FOSTER #3-18	DOMBEY	0.0	PANHANDLE EASTERN
8419653	23882	3500722446		102-4		KING A-1	DOMBEY	2900.0	PANHANDLE EASTERN
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	02/06/84	JA: OK			
8419622	26239	3504521010		103		STAHLMAN #1		365.0	
-GUINN OIL CO				RECEIVED:	02/06/84	JA: OK			
8419646	26358	3511721972		103		GILMORE #1		269.0	HJD GAS CO
8419669	26356	3511721736		103		WELDON #1		9.1	HJD GAS CO
8419668	26357	3511721782		103		WELDON #3		11.0	HJD GAS CO
8419667	26359	3511721829		103		WELDON #5		18.3	HJD GAS CO
-HAMILTON BROTHERS OIL CO				RECEIVED:	02/06/84	JA: OK			
8419634	24224	3512100000		102-2		HOPPER #1-25	WILDCAT	0.0	ARKANSAS LOUISIAN
-HAWKINS OIL & GAS INC				RECEIVED:	02/06/84	JA: OK			
8419625	25660	3504571172		102-4	103	LOMAS HARREL #1-10	N W CARMAGO	65.0	PHILLIPS PETROLEU
8419626	25659	3504521176		102-4	103	LOMAS HARREL #2-10	N W CARMARGO	373.0	PHILLIPS PETROLEU
8419624	25661	3504521177		102-4	103	LOMAS HARREL #3-10	N W CARMARGO	460.0	PHILLIPS PETROLEU
-JOHN A KIENZLE				RECEIVED:	02/06/84	JA: OK			
8419671	26284	3511122001		108		C B NICHOLSON #1	HOFFMAN	11.0	PHILLIPS PETROLEU
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	02/06/84	JA: OK			
8419648	26416	3515321454		103		BOWERS-WINTER #1-24	S E CEDARVILLE	350.4	
-LADD PETROLEUM CORPORATION				RECEIVED:	02/06/84	JA: OK			
8419647	26415	3509321921		103		COPPOCK "B" #2 (MANNING)	RINGWOOD	5.5	RINGWOOD GATHERIN
-LATCO ENERGY INC				RECEIVED:	02/06/84	JA: OK			
8419650	22606	3507323773		103		YOUNG #2	SOONER TREND	1.0	
-NORTH STAR EXPLORATION CO				RECEIVED:	02/06/84	JA: OK			
8419631	24165	3510920766		102-4		KERI BETH #1-A		150.0	WESTWIND GAS CO
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	02/06/84	JA: OK			
8419677	26389	3509322773		103		EITZEN #1-20	SOUTHWEST FAIRVIEW	100.0	UNION TEXAS PETRO
8419676	26388	3509322748		103		HENDRICKS #1-20	SOUTHWEST FAIRVIEW	100.0	UNION TEXAS PETRO
8419678	26390	3509322744		103		NIGHTENGALE #1-20	SOUTHWEST FAIRVIEW	100.0	UNION TEXAS PETRO
-SOUTHWEST EXPLORATION INC				RECEIVED:	02/06/84	JA: OK			
8419679	26391	3509300000		103		FAST #4-1		0.0	PHILLIPS PETROLEU
-STANTON ENERGY INC				RECEIVED:	02/06/84	JA: OK			
8419666	26384	3503725366		103		EVANS #7		100.0	KERR-MCGEE CORP
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/06/84	JA: OK			
8419670	26338	3505320871		108		SCHMITZ #3	WAKITA TREND	14.0	NORTHWEST CENTRAL
-TEXACO INC				RECEIVED:	02/06/84	JA: OK			
8419642	26273	3504922289		103		PATTON UNIT #2	GOLDEN TREND	197.0	WARREN PETROLEUM
-TRIAD ENERGY INC				RECEIVED:	02/06/84	JA: OK			
8419656	24364	3510321372		102-4		BOLAY #1	SAMS	1.0	ARCO OIL & GAS CO
8419651	22717	3510321867		102-4		BOLAY #2	SAMS	1.0	
8419652	23006	3510321895		102-4		BOLAY #3	SAMS	1.0	
8419665	24365	3510321991		102-4		BOLAY #4	SAMS	1.0	ARCO OIL & GAS CO
-TXO PRODUCTION CORP				RECEIVED:	02/06/84	JA: OK			
8419620	26261	3500743133		108		BARBY #2	MOCANE	0.0	NORTHERN NATURAL
8419675	26387	3509322775		103		WILLITS "A" #2	CHEYENNE VALLEY	0.0	DELHI GAS PIPELIN
-VAUGHN GOOD				RECEIVED:	02/06/84	JA: OK			
8419672	26280	3505300000		103		ZIMMERMAN #1-10	SOONER TREND	11.0	UNION-TEXAS PETRO
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	02/06/84	JA: WV			
8419593		4704103135		108		A-1004	SKIN CREEK DISTRICT	0.0	CONSOLIDATED GAS
8419595		4704103074		108		A-1023	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8419596		4704103064		108		A-1025	SKIN CREEK DISTRICT	0.0	CONSOLIDATED GAS
8419594		4704103096		108		A-1041	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8419599		4702103762		108		A-943	CENTER DISTRICT	0.0	CONSOLIDATED GAS
8419597		4704103029		108		A-960	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8419598		4704103024		108		A-961	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8419592		4708505188		108		A-966	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8419572		4708505211		108		A-980	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-ALLSTATE ENERGY CORP				RECEIVED:	02/06/84	JA: WV			
8419603		4708505473		108		BURNETTE #2-58	UNION DISTRICT	4.4	CARNEGIE NATURAL
8419604		4708501584		108		CHEVAUSDEFRISE RUN	UNION DISTRICT	7.8	CARNEGIE NATURAL
8419601		4702103858		108		MCCARTY #1	TROY DISTRICT	0.0	CONSOLIDATED GAS
8419602		4708505630		108		WASHBURN #2-62	GRANT DISTRICT	4.6	CONSOLIDATED GAS
-ANVIL OIL CO INC				RECEIVED:	02/06/84	JA: WV			
8419547		4701702602		103		MARGUERITE LONG (A-1)	GRANT DIST	14.0	COLUMBIA GAS TRAN
-APPALACHIAN PETROLEUM CORP				RECEIVED:	02/06/84	JA: WV			
8419615		4710500904		107-DV		WILDWOOD DEVELOPMENT #1	BURNING SPRINGS	36.0	ROARING FORK GAS
8419614		4710500905		107-DV		WILDWOOD DEVELOPMENT #2	BURNING SPRINGS	36.0	ROARING FORK GAS
-BEM-PETROPHONICS DRLG PROGRAM I				RECEIVED:	02/06/84	JA: WV			
8419606		4708505432		107-DV		TEMPLETON #1	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN
-BIG B DRILLING CO INC				RECEIVED:	02/06/84	JA: WV			
8419590		4701302539		108		G B SIMMONS #1	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS
8419589		4701302542		108		G B SIMMONS #2	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS
8419588		4701302551		108		G B SIMMONS #3	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS
8419583		4708702037		108		J A HARRIS #5	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419582		4708702038		108		J A HARRIS #6	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419581		4708702039		108		J A HARRIS #7	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419580		4708702040		108		S B SIMMONS #12	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419586		4708702030		108		S B SIMMONS #7	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419585		4708702031		108		S B SIMMONS #8	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419584		4708702032		108		S B SIMMONS #9	SPENCER DISTRICT	0.0	CONSOLIDATED GAS
8419587		4701302567		108		SIMMONS-JETT #1	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS
-BIG INJUN DRILLING CORP				RECEIVED:	02/06/84	JA: WV			
8419616		4707301117		107-DV		A G BAILEY #1	A G BIALEY ST MARYS F	0.0	COLUMBIA GAS TRAN
8419617		4707301117		103		A G BAILEY #1	A G BAILEY ST MARYS F	0.0	COLUMBIA GAS TRAN
-BILLY E BAYLES				RECEIVED:	02/06/84	JA: WV			
8419551		4700701792		103		HEFNER #1	SALT LICK	22.0	CONSOLIDATED GAS
-BKK PROSPECTING LTD				RECEIVED:	02/06/84	JA: WV			
8419608		4707301210		107-DV		D NAGLE #1	DANNY NAGLE	5.0	COLUMBIA GAS TRAN
8419610		4707301290		107-DV		MCKNIGHT #1 BKK 33	UNION	5.0	COLUMBIA GAS TRAN
8419611		4707301240		107-DV		ORIE SUMMERS #1	UNION	8.5	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	02/06/84	JA: WV			
8419557		4703302782		108		CONSOLIDATION COAL CO 12766	CLAY	9.0	GENERAL SYSTEM PU
8419579		4707700204		108		J W AND PEARL TRICKETT 12585	LYON	5.0	GENERAL SYSTEM PU
8419571		4704900359		108		S A TOWNE 1822	MANNINGTON	21.0	GENERAL SYSTEM PU
-ENERGEX OIL & GAS CORP				RECEIVED:	02/06/84	JA: WV			
8419574		4707301514		103		ROGERS #1	SCHULTZ QUANDRANGLE	75.0	
-ENHANCED OIL RECOVERY INC				RECEIVED:	02/06/84	JA: WV			
8419568		4704102949		108		MITCHELL #2	HACKERS CREEK	4.0	CONSOLIDATED GAS
8419567		4704102950		108		SMITH #1	HACKERS CREEK	2.0	CONSOLIDATED GAS
-HARRY C BOGGS				RECEIVED:	02/06/84	JA: WV			
8419618		4700701632		103		M C CHAPMAN #3	NICUT	18.0	COLUMBIA GAS TRAN
8419619		4700701631		103		RUIE HALL #3	NICUT	18.0	COLUMBIA GAS TRAN
-HENRY PETROLEUM CORP				RECEIVED:	02/06/84	JA: WV			
8419612		4707301247		107-DV		CUNNINGHAM #2	LAFAYETTE	0.0	COLUMBIA GAS TRAN
-I S INC ILLINOIS CORP				RECEIVED:	02/06/84	JA: WV			
8419549		4708505935		103		WADE #4	UNION DISTRICT	0.0	CARNEGIE NATURAL
-INTERSTATE DRILLING INC				RECEIVED:	02/06/84	JA: WV			
8419545		4704103306		103		I K DENNISON #1	VANDALIA	13.0	CONSOLIDATED GAS
8419546		4704103288		103		K P STALNAKER #1	VANDALIA	14.0	CONSOLIDATED GAS
-J & B OIL CO INC				RECEIVED:	02/06/84	JA: WV			
8419591		4701301936		108		STALNAKER #1	LEE DISTRICT	0.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	02/06/84	JA: WV			
8419573		4700101394		103		B-394	VALLEY	0.0	CONSOLIDATED GAS
-KAISER EXPLORATION & MINING CO				RECEIVED:	02/06/84	JA: WV			
8419548		4710701206		107-DV		HERBERT GALLAND KEM #348	MURRAYSVILLE	40.0	KAISER ALUMINUM &
-KEY OIL COMPANY				RECEIVED:	02/06/84	JA: WV			
8419578		4701702314		108		CLARENCE POWELL #1	GRANT	2.4	CONSOLIDATED GAS
8419577		4701702289		108		CLAUDE F SMITH #1	WEST UNION	6.0	COLUMBIA GAS TRAN
-MCINTOSH AND GRIMM				RECEIVED:	02/06/84	JA: WV			
8419609		4701303357		103		MARY HAYS HEIRS #5	LEE	18.0	CONSOLIDATED GAS
-PETROLEUM RESOURCES INC				RECEIVED:	02/06/84	JA: WV			
8419576		4704103188		103		GEO ROHRBAUGH HRS #4A	COLLINS	30.0	CONSOLIDATED GAS
8419575		4704103238		103		ROHRBAUGH HRS #5A	COURTHOUSE	50.0	CONSOLIDATED GAS
-PETROLEUM TECHNOLOGY CORP				RECEIVED:	02/06/84	JA: WV			
8419600		4704301851		107-DV		PTC - 6	BECKELHEIMER FARM	14.0	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP				RECEIVED:	02/06/84	JA: WV			
8419613		4703923739		103		CHAS E HALSTEAD #1	ELK DISTRICT	25.6	COLUMBIA GAS TRAN
-R & B PETROLEUM INC				RECEIVED:	02/06/84	JA: WV			
8419605		4708300694		103		SKIDMORE #3	ROARING CREEK	10.0	PARTNERSHIP PROPE
-SANTA FE DRILLING CORP				RECEIVED:	02/06/84	JA: WV			
8419607		4710701199		107-DV		ROLSTON #1	UNION DISTRICT	0.0	CONSOLIDATED GAS
-SEE FRENCH A				RECEIVED:	02/06/84	JA: WV			
8419554		4704100354		108		WEIDLICH #1	COLLINS SETTLEMENT	7.0	EQUITABLE GAS CO
-SNIDER A M				RECEIVED:	02/06/84	JA: WV			
8419558		4710300036		108		MAUDE SIX #1	CHURCH	5.5	COLUMBIA GAS TRAN
-STERLING DRILLING AND PROD CO INC				RECEIVED:	02/06/84	JA: WV			
8419564		4701502035		108		BRAGG #623	OTTER DISTRICT	13.1	BROOKLYN UNION GA
8419562		4708703449		108		DOLAN #518	GEARY DISTRICT	6.7	COLUMBIA GAS TRAN
8419566		4701502014		108		SPINKS #539	OTTER DISTRICT	10.1	BROOKLYN UNION GA
8419565		4701502046		108		SPINKS #650	OTTER DISTRICT	7.2	BROOKLYN UNION GA
8419563		4701502160		108		SPINKS #676	OTTER DISTRICT	4.5	BROOKLYN UNION GA
-STONEWALL GAS CO				RECEIVED:	02/06/84	JA: WV			
8419552		4704900699		108		AMOS #2 88-S	MANNINGTON DISTRICT	11.0	CONSOLIDATED GAS
8419570		4704102956		108		BOOTH #1 (24-SH	HACKER'S CREEK	1.1	CONSOLIDATED GAS
8419555		4703302441		108		ERNESTINE ALLEN 62-B (SB-337)	JONES CREEK EAGLE DIS	10.0	CONSOLIDATED GAS
8419561		4708505204		108		F CRISS #1-87-S	GRANT	37.5	CONSOLIDATED GAS
8419559		4708505654		108		F CRISS #2-145-S	GRANT	30.0	CONSOLIDATED GAS
8419569		4708505202		108		GENE CRISS #1 86-HH	GRANT DISTRICT	60.3	CONSOLIDATED GAS
8419560		4708505653		108		GENE CRISS #2 144-S	GRANT DISTRICT	55.0	CONSOLIDATED GAS
8419550		4701723102		108		GUY BROWN #2 143-SH	GREENBRIER	97.0	CONSOLIDATED GAS
8419556		4703302399		108		MARY A GERRARD 60-B (SB-332)	TENMILE CREEK SARDIS	20.0	CONSOLIDATED GAS
8419553		4703300000		108		RUPERT WINTERS #1 110-S	SIMPSON DISTRICT	5.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
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-LOMAX EXPLORATION COMPANY				RECEIVED:	02/06/84	JA: UT 5			
8419517 073-83		4301330744		102-2		MONUMENT FEDERAL #12-35	MONUMENT BUTTE	36.0	MOUNTAIN FUEL SUP
-TXO PRODUCTION CORP				RECEIVED:	02/06/84	JA: UT 5			
8419514 070-83		4301930657		103		GRYNBERG FEDERAL #1	SAN ARROYO	461.0	NORTHWEST PIPELIN
8419516 072-83		4301931020		103		NICOR FEDERAL #2	SAN ARROYO	176.0	NORTHWEST PIPELIN
8419515 071-83		4301930838		103		WALL FEDERAL #1	BRYSON CANYON	329.0	NORTHWEST PIPELIN
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TULSA,OK									
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-UNION OIL COMPANY OF CALIF				RECEIVED:	02/06/84	JA: OK 6			
8419513 OK-T-10-84		3509500000		108		G J MASON #1-13	AYLESWORTH	18.0	PIONEER GAS PRODU

[FR Doc. 84-5634 Filed 3-1-84; 8:45 am]

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Friday
March 2, 1984

Part V

Federal Communications Commission

47 CFR Part 67

Jurisdictional Separations Procedures; Amendment of the Commission's Rules and Establishment of a Joint Board; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 83-564]

Jurisdictional Separations Procedures; Amendment of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Decision and order.

SUMMARY: The Commission adopts changes in jurisdictional separations procedures for allocating telephone plant costs between the state and federal jurisdictions. The changes in separations are necessary to ensure consistency with the Commission's access charge plan and to protect telephone subscribers in high cost areas. Implementation of these changes will make the separations procedures more consistent with the Commission's access charge plan.

The Commission is publishing full text in the **Federal Register** and codifying into the Code of Federal Regulations a 1983/84 edition of the Separations Manual. The Separations Manual was incorporated by reference with the approval of the Director of the Federal Register; the incorporation by reference will be dropped with the full text codification of the Manual and all future amendments will be to Part 67 of the CFR.

EFFECTIVE DATE: April 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 67

Communications common carriers, Telephone, Jurisdictional separations.

Decision and Order

In the Matter of Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board; CC Docket No. 80-286; FCC 83-564.

Adopted December 1, 1983.
Released February 15, 1984.

By the Commission.

I. Introduction

1. In this proceeding the Commission is considering changes in the procedures for allocating non-traffic sensitive (NTS) and traffic sensitive (TS) local exchange plant costs between the interstate and intrastate jurisdictions, as well as other changes in the *Separations Manual (Manual)* used by telephone companies to apportion costs. This proceeding was instituted for the primary purpose of developing a new method for allocating NTS local exchange costs between the jurisdictions. On September 26, 1983, the Federal-State Joint Board issued its *Second Recommended Decision and Order* in CC Docket No. 80-286, 48 FR 46556 (October 13, 1983), containing its recommendations for resolution of the remaining issues in this proceeding.[1] The Chief, Common Carrier Bureau, acting pursuant to delegated authority requested comments on the Joint Board's recommendations. *Order Requesting Comments*, Mimeo No. 6725, released September 26, 1983. Comments were filed October 17, 1983 and replies were filed October 27, 1983. All together the Commission received almost fifty filings from thirty different parties. The Commission hereby adopts the Joint Board's recommendations with a number of changes and clarifications. We also adopt as our own the Joint Board's analysis in support of the proposed changes contained in its *Second Recommended Decision and Order*, except as those recommendations are modified herein. In a number of areas we have also expanded on the Joint Board's discussion in responding to various contentions raised in the comments and replies.

2. The *Second Recommended Decision and Order* proposes replacing the frozen Subscriber Plant Factor (SPF) as the basis for allocating most MTS plant. Instead, a 25 percent interstate allocation factor would be uniformly applied in all study areas. The transition from frozen SPF to the 25 percent base factor apportionment would begin in 1986 and would be implemented in four steps. This basic allocation would be supplemented by an additional interstate NTS allocation for high cost areas to help keep local rates affordable. The Joint Board also recommended capping subscriber access charges at twice the national average to avoid excessive end user charges in study areas with very high costs. The Joint Board has recommended a number of other changes as well.

3. Specifically, the Joint Board proposed the following: (1) A basic 25 percent interstate allocation factor for all study areas [2] applicable to investment in non-wideband subscriber loops used jointly for exchange service and toll message services (excluding WATS access lines) and inside wiring as well as the maintenance and depreciation expenses and reserves associated with these plant categories;[3] (2) an additional lump sum interstate expense allocation for study areas with relevant unseparated (total intrastate and interstate) NTS local exchange costs [4] in excess of 115 percent of the national average, based on a series of cost bands which provide a higher percentage interstate allocation for costs in the higher cost bands;[5] (3) division of the interstate end user common line revenue requirement calculated pursuant to Part 69 of the Commission's rules into a subscriber access amount, which will be reflected in subscriber access charges, and a high cost amount, which will be recovered through carrier's carrier access charges to prevent subscriber access charges from exceeding 200 percent of the national average; and (4) continued use of the frozen percentage Subscriber Plant Factor (SPF)[6] until January 1, 1986, followed by a transition period during which the 25 percent basic interstate allocation for jointly used subscriber loops, inside wire, and associated maintenance, depreciation, and reserves as well as the additional interstate expense allocation for high cost areas

[1] For a discussion of the history of this proceeding and related developments, see paragraphs 4 through 9 of the Joint Board's Second Recommended Decision and Order.

[2] A study area usually consists of a telephone company's service territory within a particular state.

[3] The Joint Board also recommended application of the basic 25 percent allocation factor to Category 8 Subscriber Line Circuit Equipment associated with such jointly used non-wideband subscriber loops.

[4] The relevant unseparated NTS costs as defined by the Joint Board include: (1) A return component for net plant investment in non-wideband subscriber loops jointly used for exchange and message toll services (excluding WATS access), calculated on the basis of the actual debt/equity ratio, the actual cost of debt and the authorized rate of return on equity for interstate access service; (2) associated maintenance and depreciation expenses; and (3) an amount of general expenses, certain other operating expenses, and taxes proportionate to the net investment in non-wideband subscriber line outside plant jointly used for local exchange and message toll services excluding WATS access.

[5] The Joint Board stated that this additional interstate allocation was to be calculated after the basic state and interstate allocations had been determined pursuant to the other provisions of the *Separations Manual*. It would be deducted from the state allocation calculated pursuant to the other *Manual* provisions, lowering the state revenue requirement and keeping intrastate rates lower than they otherwise would be.

[6] SPF is the allocation factor for NTS plant that was approved by the Commission in 1970. *Separations Procedures*, Docket No. 18866, 26 FCC 2d 247 (1970). The *Separations Manual* renders SPF as equal to .85 SLU + (2SLU × CSR), with SLU (subcriber line usage) as a measure of relative use and CSR (composite station rate) as a factor related to interstate toll rates at the average length of haul for interstate toll calls. The multiplicative nature of the formula magnifies the allocative impact of increases in relative interstate usage.

will be phased-in in four equal steps, subject to the limitation that no study area is to experience a decrease in its interstate NTS allocation of more than 10 percentage points in any one year.

4. The other changes in the allocation of local exchange plant recommended by the Joint Board include: (1) Minor revisions in the outside plant categories to track the categories used in Part 69 of the Commission's rules; (2) direct assignment of subscriber loops used exclusively for intrastate or interstate private line or WATS access; (3) additional *Separations Manual* language to ensure that the benefits of the customer premises equipment (CPE) phase out plan previously adopted by the Commission in this proceeding [7] continue to flow to the local Bell Operating Companies after the embedded CPE is transferred to AT&T under the provisions of the *Modification of Final Judgment* (MFJ),[8] with the interstate CPE related allocation based on the frozen percentage SPF; (4) continued allocation of NTS Category 6 Central Office Equipment (NTS Category 6 COE) to the interstate jurisdiction on the basis of frozen SPF pending further study of the need for changes in the categorization and allocation of this plant; (5) the adoption of seven (calendar) day traffic studies in lieu of five (business) day studies; (6) the inclusion of unweighted ENFIA (Exchange Network Facilities for Interstate Access) dial equipment minutes of use in the allocation of traffic sensitive local dial switching equipment; (7) the revision of some language in the outside plant and central office equipment *Manual* provisions to treat explicitly digital electronic host/remote complexes; and (8) the treatment of open and FX (Foreign Exchange) and CCSA/ONALS (Common Control Switching Arrangement/Off Network Access Line Service) used in interstate service as interstate for separations purposes. A number of other technical changes to the *Manual* were proposed by the Joint Board. Many of these were intended to simplify or modernize the separations procedures. The most significant of these other technical changes is the change from traffic units to weighted standard work seconds as the basis for the allocation of certain classes of manual office and operator expenses. The Joint Board stated that each of these "other" matters has little effect on the allocation of costs between the jurisdictions.

5. As previously indicated, the Commission is adopting these proposed changes in jurisdictional separations procedures with a number of relatively minor changes and clarifications. The most significant of these involves expansion of the plant categories considered in determining whether a study area qualifies for an additional interstate allocation and in calculating the amount of the additional allocation. We find that drop and block wire and Category 8.13, Subscriber Line Circuit Equipment, should be included in these calculations. We have also decided to require all local telephone companies to submit the data used in calculating the additional interstate allocation and the high cost portion of the end user access charge to the National Exchange Carrier Association (*NECA*) [9] in June 1984, instead of 1985. This is important so that we will be better able to judge the effects of the formula for computing the Universal Service Fund and make adjustments in the level of coverage or assistance mechanism if necessary. As discussed below, we are asking the Joint Board to study this subject. We have also decided to defer consideration of the proposal for direct assignment of WATS access lines and to continue the existing separations treatment of these facilities pending further recommendations by the Joint Board.

6. The Joint Board did not recommend any comprehensive changes in the apportionment of Category 6 Central Office Equipment. It concluded that most questions relating to the apportionment of Central Office Equipment should be examined at a later date. Our *Notice of Proposed Rulemaking* in this proceeding stated that we expect to refer interexchange separations questions to this Joint Board or another Joint Board at a later date. 78 FCC 2d 837 at 838 (1980). We still expect to institute such a proceeding and agree that some questions relating to traffic sensitive exchange plant should be included. We will determine the precise scope of that proceeding when we issue a *Notice* or *Supplemental Notice of Proposed Rulemaking*.

7. The major areas addressed in the comments are discussed below. Each section contains a brief summary of the Joint Board's recommendation and the relevant comments [10] as well as our conclusions. Further information on each of these topics is contained in the Joint Board's *Second Recommended Decision and Order*.

II. Basic Allocation Factor

8. The Joint Board recommended a basic 25 percent interstate allocation for NTS local exchange plant costs [11] for all study areas effective January 1, 1986, subject to an appropriate transition period. Frozen SPF would continue to be used through the end of 1985. In particular, the Joint Board recommended application of the basic 25 percent allocation factor to investment in inside wiring, the new Subscriber Line Outside Plant Category 1.33 which includes non-wideband loops between central offices and subscriber premises used for message services, including WATS access lines, and Category 8.13 Subscriber Line Circuit Equipment associated with OSP Category 1.33, as well as the associated maintenance and depreciation expenses and reserves. The Joint Board recommended continued use of frozen SPF for purposes of allocating CPE investment and associated expenses until CPE is completely phased out of the separations process. It also recommended the application of frozen SPF to NTS Category 6 COE pending review of the need for changes in the treatment of the local dial switching equipment.

9. A substantial majority of the parties filing comments which addressed this question expressed support for the new 25 percent basic allocation factor for NTS local exchange plant. A number of those supporting the 25 percent basic allocation factor expressed the view that this allocation methodology is desirable only if the Commission's access charge plan [12] is implemented without major changes. Several of these parties including AT&T, Bell South and Southern New England Telephone Co. (SNET) suggested deferral of action on separations changes until access charges are in place. Pacific Telephone and Telegraph Co. and the Illinois Commerce Commission also emphasized the importance of implementing the new

[7] Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, 89 FCC 2d 1 (1982), *modified*, 90 FCC 2d 52 (1982).

[8] United States v. AT&T, 552 F. Supp. 131 (1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). The Commission approved the transfer of embedded CPE to AT&T Information Systems (ATTIS), subject to certain conditions, in a Report and Order adopted November 23, 1983, CC Docket No. 81-893, FCC 83-551, released December 15, 1983.

[9] The NECA is to calculate the size of the Fund and the amount of assistance for each study area.

[10] A detailed summary of the comments and replies will be placed in the Docket of this proceeding.

[11] Currently, nationwide average SPE is frozen at approximately 26 percent, although the SPF factor for each study area is different. *See* note 6 *supra*.

[12] MTS and WATS Market Structure Inquiry, Phase I (Access Charge Proceeding), Third Report and Order, 48 FR 10319 (March 11, 1983), *modified*, 48 FR 42984 (September 21, 1983), *further modified* FCC 84-36, released February 15, 1984, *appeal pending sub nom.* NARUC v. FCC, No. 83-1225 (D.C. Cir. filed March 1, 1983) (Access Charge Order).

basic allocation factor in conjunction with the access charge plan. A number of parties opposed the approach recommended by the Joint Board. Bell Atlantic recommended continued use of the existing frozen percentage SPF until 1991. CP National Corp. also supported continued use of frozen percentage SPF. The New York Department of Public Service and the state of California argued that *Smith* v. *Illinois Bell Telephone Company*, 282 U.S. 133 (1930) requires a usage based allocation of NTS local exchange plant between the state and interstate jurisdictions. As a result, they take the position that use of an equal percentage interstate allocation for all study areas is illegal. MCI Telecommunications Corp. also argued that a 25 percent interstate allocation of NTS local exchange plant is illegal because it, like SPF, results in an excessive interstate allocation and subsidization of interstate services.[13] Instead, MCI recommended federal preemption of jurisdiction over all NTS local exchange plant costs and recovery of these costs in accordance with rules prescribed by the Commission. Satellite Business Systems, Inc. supported MCI in recommending federal preemption of jurisdiction over all NTS local exchange costs.

10. We find that an equal percentage basic interstate allocation factor for NTS local exchange costs supplemented by a Universal Service Fund will produce fair and equitable results when used in conjunction with our access charge plan based on the substantial record before us in this proceeding. Under the access charge plan, a major portion of the interstate allocation of NTS local exchange costs (excluding CPE, inside wiring and NTS Category 6 COE) will eventually be recovered directly from subscribers through flat fee access charges. An equal percentage interstate allocation will result in subscriber access charges which are a function of the cost of service in each study area. In contrast to this, continued use of frozen percentage SPF or any other usage based allocation methodology will produce an irrational "crazy quilt"pattern of access charges with substantially different interstate NTS allocations, and, therefore, different flat fee subscriber access charges in areas with identical NTS costs. In fact, such an allocation methodology could result in high subscriber access charges even in areas with low costs if the interstate relative use is sufficiently high. Frozen SPF or any usage based NTS allocation methodology and the resulting high access charges in areas with high interstate relative use would also create demands for rate support in these areas which would be contrary to our efforts to direct assistance to high cost areas. A usage based allocation methodology which was not based on historical usage levels could also result in significant growth in the interstate allocation if the interstate toll rate reductions accompanying implementation of the access charge plan result in a significant increase in interstate relative use, as expected. This would be contrary to the goal of ensuring a relatively stable interstate allocation.[14] An increased interstate NTS allocation would also result in higher flat fee subscriber access charges since a major portion of the interstate NTS allocation will be recovered directly from subscribers under the access charge plan. For these reasons, continued use of frozen SPF for a substantial number of years or the application of any usage based NTS allocation methodology would produce undesirable results and must be rejected.

11. We agree with the Joint Board's recommendation to set the basic interstate allocation at 25 percent which approximates nationwide average SPF. This will keep the basic division of NTS local exchange costs between the jurisdictions about the same as they are now, and will minimize the aggregate amount of change involved in moving from SPF to a flat allocation. For a further discussion of these matters see the *Second Recommended Decision and Order* at paragraphs 38 through 49.

12. We also agree with the Joint Board's conclusion that a flat 25 percent interstate allocation for NTS local exchange plant costs satisfies the requirements of the Communications Act and the relevant case law concerning the allocation of jointly used telephone plant. Neither the Act nor the relevant case law requires a usage based allocation of this plant. Section 221(c) of the Act authorizes this Commission to allocate telephone company plant between the jurisdictions. This section does not specify a particular allocation methodology, however, allowing the Commission broad discretion consistent with the purposes of the Act.[15] In *Smith* v. *Illinois Bell Telephone Company*, 282 U.S. 133 (1930), the seminal case on jurisdictional separations, the Supreme Court stated:

> While the difficulty in making an exact apportionment of the property is apparent, and extreme nicety is not required, only reasonable measures being essential, * * * by some practical method the different uses of the property [must] be recognized and the return properly attributable to the intrastate service * * * ascertained accordingly.

Id. at 150–51. *Smith* does not require the use of a particular method of allocating costs. The requirement that "by some practical method the different uses of the property [must] be recognized," mandates an allocation of costs between the jurisdictions, but it in no way requires that the allocation be based on minutes of use as New York and California contend. The Court simply concluded that commonly used plant should be apportioned in some manner because it is actually used for both intrastate and interstate services. For a further discussion of this matter see the *Second Recommended Decision and Order* at paragraphs 50 through 52.

13. The *Smith* opinion did not express any preference with respect to apportionment methods apart from noting (fn. 4, 282 U.S. at 151) that the prior Court opinion in *Houston* v. *Southwestern Bell Telephone Co.*, 259 U.S. 318, 332 (1922), accepted the method used in *Houston* as reasonably sufficient upon the facts shown. The local exchange had been credited "with 25% of the long-distance toll revenues received from calls originating in Houston as compensation for the use

[13] MCI also contends that the basic 25 percent allocation factor and the assistance for high cost areas constitute an illegal tax on MCI and its customers as well as an unlawful taxing of property without just compensation. These contentions are discussed in the context of the assistance for high cost areas.

[14] Order Requesting Further Comments, CC Docket No. 80-286, Mimeo No. CC 32408, at para. 35 (released November 15, 1982).

[15] The courts have consistently held that the Commission has broad discretion so long as its actions further the legislative purposes for which the Commission was created and are not contrary to the basic statutory scheme. *See, e.g.*, United States v. Southwestern Cable Co., 392 U.S. 157 (1968) (authorized Commission regulation of cable television although such regulation is not specifically provided for in the Act); National Broadcasting Co. v. United States, 319 U.S. 190 (1943) (sanctioned Commission restriction of network practices found contrary to the public interest despite absence of explicit provision for such regulation in the Act); Lincoln Telephone and Telegraph Co. v. Federal Communications Commission, 659 F.2d 1092 (D.C. Cir. 1981) (upheld Commission establishment of interim billing and collection rate for OCC interconnection with local exchange facilities in the absence of a record sufficient to allow a rate prescription even though this is not specifically provided for in the Act); Nader v. Federal Communications Commission, 520 F.2d 182 (D.C. Cir. 1975) (approved prescription of a rate of return although the Act specifically authorizes only the prescription of actual rates); G.T.E. Service Corp. v. Federal Communications Commission, 474 F.2d 724 (2d Cir. 1973) (upheld restriction on carrier entry into the data processing field despite failure of the Act to specifically deal with that question).

made of local plant in rendering long distance service." The Houston method did not resemble any method advocated by any opponent of the Joint Board recommendation.

14. Subsequent decisions relating to jurisdictional separations in other industries confirm our view that this Commission has broad discretion in the allocation of jointly used plant. In *Colorado Interstate Gas Co.* v. *FPC*, 324 U.S. 581 (1945), after recognizing that the Congress had prescribed no allocation formula in the Natural Gas Act, the Supreme Court stated:

> When Congress, as here fails to provide a formula for the Commission to follow, courts are not warranted in rejecting the one which the Commission employs unless it plainly contravenes the statutory scheme of regulation * * *.

Id. at 589.

15. Later the Court elaborates on this idea in stating:

> Judgment and discretion control both the separation of property and the allocation of costs when it is sought to reduce to its component parts a business which functions as an integrated whole * * *. These circumstances illustrate that considerations of fairness, not mere mathematics, govern the allocation of costs.

Id. at 591.

16. MCI's contention that a 25% allocation would be unlawful appears to be a variation of MCI arguments that have been rejected in the past. MCI has frequently argued that prior separations procedures are invalid because the apportionments were not cost-based. In its appeal from our decision adopting the *Interim Cost Allocation Manual* (or "ICAM"), MCI argued that the ICAM should be rejected because it was based in part upon a flawed *Separations Manual*. The Court affirmed this Commission's decision, *MCI Telecommunications Corp.* v. *FCC*, 675 F.2d 408 (D.C.Cir. 1982). Although the Court of Appeals concluded that MCI's "challenge to the Separations Manual is not relevant," *id.* at 415, that Court also expressed its disagreement with MCI's views. The Court said:

> The very problem at issue here—allocation of common costs—arises precisely because there is no purely economic method of allocation. In this sense no Commission choice among the various methods could be justified solely on economic criteria; elements of fairness and other noneconomic values inevitably enter the analysis of the choice to be made.

Id. at 415–16.

17. Finally, we note that with respect to the NTS plant, development of a true "cost based" pricing method would be difficult if not impossible. The Court of Appeals' conclusion in *MCI* that there is "no purely economic method of allocation" is clearly applicable to non-traffic sensitive plant that is used for both interstate and intrastate services. The Joint Board reached essentially the same conclusion when it noted in the *Second Recommended Decision and Order* at para. 52 that a "purely cost based allocation of this plant between the jurisdictions would be extremely difficult to develop since the cost of the plant does not vary with usage." Interjurisdictional subsidy questions cannot arise in the apportionment of commonly used non-traffic sensitive plant or associated expenses because the costs that are attributable to either jurisdiction cannot be identified.

18. We cannot agree with the proposals for federal preemption of state authority over the recovery of NTS local exchange costs put forth by MCI and SBS. Even if we have the power to do so,[16] we cannot find that there is any justification for such an intrusion on the traditional state role in ratemaking at this time. We are in complete agreement with the Joint Board's conclusion that the basic division of NTS local exchange costs between the state and federal jurisdictions should not be changed significantly at this time. There is no justification in the record for changing the level of the interstate NTS allocation in light of the fact that our access charge plan will eventually eliminate the problems previously caused by the high level of toll loading.[17]

19. As previously noted, several parties either suggested delaying Commission action on a new NTS allocation methodology in light of deferral of the effective date for the access charge tariffs [18] or expressed concern about the effect of the flat 25 percent interstate allocation if the Commission's access charge plan is not implemented in its present form. AT&T stated that in the absence of flat fee subscriber access charges, the Commission should institute proceedings looking toward a substantial reduction in the interstate allocation of NTS local exchange costs. The Illinois Commerce Commission also observed that use of this NTS allocation methodology would result in a slight increase in the interstate allocation [19] and, if implemented without flat fee subscriber access charges, would increase the level of inter-regional transfers.[20] We do not believe that suspension of the access charge tariffs or deferral of end user access charges for residential and single line business users warrants a delay in our final decision with respect to these separations changes. We will, of course, reevaluate these rules if circumstances arise that differ from our present assumptions.

20. Rochester Telephone Co. opposed application of the basic 25 percent interstate allocation factor to inside wiring on the ground that the investment in inside wiring will be fully amortized by 1994 at the latest, and possibly earlier if the Commission grants requests for waiver to allow local telephone companies to complete amortization of this investment as early as January 1, 1987. The possibility that the Commission may grant waivers allowing local telephone companies the option of amortizing the investment in inside wire by 1987 does not justify the

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[16] In North Carolina Utilities Commission v. Federal Communications Commission (*North Carolina I*) the court stated:

> We have no doubt that the provisions of Section 2(b) deprive the Commission of regulatory power over local services, facilities and disputes that in their nature and effect are separable from and do not substantially affect the conduct or development of interstate communications. But beyond that, we are not persuaded that section 2(b) sanctions any state regulation, formally restrictive only of intrastate communication, that in effect encroaches substantially on the Commission's authority under sections 201 through 205.

537 F.2d 787 at 793 (1976). Thus, the Commission might have authority to preempt the state regulation of the recovery of intrastate NTS local exchange costs if such regulation effectively thwarted the accomplishment of valid federal regulatory policies. Certainly this is not the case at present. In this regard, it is important to note that the court in *North Carolina I* said that:

> Ratemaking typifies those activities of the telephone industry which lend themselves to practical separation of the local from the interstate in such a way that local regulation of one does not interfere with national regulation of the other.

Id. at n. 6.

[17] The term "toll loading" refers to the recovery of NTS local exchange costs through the usage charges for interstate message services.

[18] Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, FCC 83-479, released October 19, 1983. In this order the Commission delayed the effective date of the access tariffs from January 1 until April 3, 1984. On January 25, 1984, the Commission voted to defer end user access charges for residential and single line business subscribers until June 1985. Access Charge Proceeding, FCC 84-36, released February 15, 1984.

[19] Although nationwide average frozen SPF is between 26 and 27 percent, use of the basic 25 percent interstate allocation for NTS local exchange costs would result in a slight increase in the interstate NTS allocation when combined with the additional interstate expense allocation for high cost areas.

[20] Illinois' contention is based on the fact that subscribers in certain states originate a very large number of interstate toll calls, and, therefore, contribute more through the per minute toll rates to cover the interstate allocation of NTS local exchange costs than is returned to the state through divisions of revenues or settlements.

continued application of frozen SPF to these investment amounts pending full amortization. Many companies may choose not to accelerate amortization even if the federal and state commissions approve it as an option.[21] Accordingly, we find that the basic 25 percent interstate allocation should apply to inside wiring subject to a transition period beginning January 1, 1986. We are also revising the *Manual* language proposed by the Joint Board to allow direct assigment of inside wire associated with intrastate or interstate private line services. The basic allocation will also apply to drop and block wire [22] which was recently moved from Account 232 to Account 242:1, Aerial Cable, and Account 242:3, Buried Cable, effective in the spring of 1984. *Amendment of Part 31,* CC Docket No. 82-679, FCC 83-456, released October 26, 1983.

III. Assistance for High Cost Areas

21. The Joint Board recommended that the Commission adopt two basic measures designed to preserve and promote universal telephone service. The first measure involves an additional interstate expense allocation [23] for study areas with relevant unseparated (*i.e.*, total intrastate and interstate) NTS local exchange plant costs in excess of 115 percent of the national average for these costs. This will moderate local exchange rates in high cost areas. The second measure involves dividing the interstate end user common line access charge revenue requirement into a subscriber access charge portion and high cost portion to cap the subscriber access charge at 200 percent of the national average. Under the Joint Board's recommendation, both the additional interstate expense allocation and the high cost portion of the interstate end user common line revenue requirement would be recovered through carrier's carrier access charges.

22. The level of assistance for each study area would be determined under the Joint Board's proposal by comparing each study area's relevant unseparated cost per working loop with the national average cost per working loop calculated on the basis of information which all study areas will be required to submit to the National Exchange Carrier Association provided for by the Commission's *Access Charge Order.* The additional interstate expense allocation for each study area will be equal to the sum of the following times the number of working loops: (1) Fifty percent of the study area's relevant cost per working loop in excess of 115 percent of the national average, but not more than 160 percent of the national average; (2) sixty percent of the study area's relevant cost per working loop in excess of 160 percent of the national average, but not more than 200 percent of the national average; (3) seventy percent of the study area's relevant cost per working loop in excess of 200 percent of the national average, but not greater than 250 percent of the national average; and (4) seventy-five percent of the study area's relevant cost per working loop in excess of 250 percent of the national average. This calculation is performed separately from the allocation of investment, expenses and reserves pursuant to the other provisions of the *Manual.* The amount calculated pursuant to this formula is then subtracted from the intrastate allocation developed pursuant to the other *Manual* provisions and added to the interstate allocation as an additional expense item to be recovered through carrier's carrier access charges under the Commission's access charge plan. By reducing the revenue requirement that a local company is entitled to claim for intrastate ratemaking purposes, the Joint Board's plan would help keep local rates lower than they otherwise would be.[24]

23. The second form of protection for subscribers in high cost areas proposed by the Joint Board involves a division of the interstate end user common line revenue requirement calculated pursuant to Part 69 of the Commission's rules into a subscriber access charge portion and a high cost portion. The amount included in the subscriber access charge portion would eventually be recovered directly from subscribers through flat fee interstate access charges. The high cost portion of the end user revenue requirement would be recovered through carrier's carrier access charges. The division of the interstate end user common line revenue requirement into a subscriber access charge amount and a high cost amount is accomplished by comparing each study area's end user revenue requirement per working loop calculated pursuant to Part 69 of the Commission's rules with the national average for this revenue requirement. Recovering the interstate end user common line revenue requirement in excess of 200 percent of the national average through carrier's carrier access charges would ensure that subscribers in high cost areas do not pay interstate end user access charges that are more than twice the national average.

24. The comments revealed a strong division of opinion concerning the Joint Board's proposals for assistance to high cost areas. A number of parties including AT&T, US West, Pacific Telephone and Telegraph Co., Bell South, United States Telephone Association (formerly USITA), General Telephone and Electronics, United Telephone System and Central Telephone Co. expressed general support for the Universal Service Fund provisions recommended by the Joint Board. While a number of these parties specifically supported directing assistance to high cost areas, many of them suggested that the Commission consider modification of the Joint Board's recommendations to direct assistance to needy individuals. The parties who expressed support for the Joint Board's recommendations in this area also emphasized the need for careful monitoring of the Fund to prevent excessive growth, or expressed concern that recovery of the high cost assistance through interstate toll rates would promote bypass of the local exchange. AT&T recommended capping the Fund at one billion dollars annually. Pacific Telephone suggested recovery of the Universal Service Fund amount through end user charges.

25. A number of parties, including Bell Atlantic, NYNEX, New York Department of Public Service, Vermont Public Service Board, Maine Public Utilities Commission, Illinois Commerce Commission, and Rochester Telephone Company criticized the Joint Board's recommendations as producing an excessively large Universal Service Fund and/or failing to direct assistance to needy individuals who might not otherwise be able to continue telephone service. These parties expressed

[21] The 25 percent basic allocation factor will also apply to expenses that are incurred in installing new wiring. These expenses will be removed from regulated operations at some time in the future if the Commission concludes that the installation of new wiring should be deregulated. A final determination with regard to that question has not been made.

[22] The basic 25 percent interstate allocation for NTS local exhange costs is intended to apply to Category 1.33, Subscriber Line Outside Plant, inside wiring, drop and block wiring and Category 8.13 Subscriber Line Circuit Equipment associated with Category 1.33 loop plant as well as the associated maintenance and depreciation expenses.

[23] The expense adjustment achieves essentially the same result as an additional apportionment of NTS investment and related expenses. The Joint Board implemented the high cost factor concept in this manner to provide a more accurate measurement of the total costs that are associated with the relevant NTS plant.

[24] In its Second Recommended Decision and Order, the Joint Board noted that the provisions for assistance to high cost areas may produce anomalous results in the case of certain high growth areas. The Joint Board stated that it intended to study this question and make a supplemental recommendation to the Commission if it found that modification of the provisions for assistance to high cost areas was desirable.

concern that directing assistance to high cost areas would not effectively promote universal service due to the failure to focus on the ability of subscribers to afford telephone service. Others were critical of the fact that a large amount of assistance would go to high growth areas in the Sun Belt. A number of these parties also expressed great concern over the interregional transfers which would result from the fact that subscribers in a number of states with relatively low telephone costs and relatively large populations and high levels of business activity would contribute much more to the Universal Service Fund than they would receive in distributions. Several parties also expressed concern that the Joint Board's proposals would undermine efficiency incentives for high cost companies. Bell Atlantic proposed eliminating the Universal Service Fund completely. MCI and SBS opposed the Universal Service Fund, contending that the Joint Board's proposals represent an unlawful tax and an unconstitutional taking without just compensation.

26. A number of other parties, including Southwestern Bell, CP National, Texas Statewide Telephone Cooperative, Inc., Independent Alliance, Alaska, Rural Electrification Administration (REA), and Rural Telephone Coalition contend that the Joint Board's proposals will not provide an adequate level of assistance for high cost areas. A number of these parties argued that the point at which high cost assistance begins to apply should be lowered to 110 percent of the national average for relevant NTS costs and that the level of coverage above this point should be increased to 90 or 100 percent.

27. Many of the commenting parties recommended changes in the provisions governing the additional interstate allocation for high cost areas to cover additional categories of plant and related overhead expenses. Most of these parties recommended inclusion of Category 8.13, Subscriber Line Circuit Equipment, and drop and block wire. Several parties advocated inclusion of NTS Category 6 COE, Local Dial Switching Equipment and land, buildings, furniture and other investment related to general overhead. Alaska and REA requested consideration of Universal Service Fund assistance for areas with high traffic sensitive costs.

28. GTE strongly supported the Joint Board's recommendations, but suggested that the Commission advance the date for the first submission of the cost data to be used in calculating the size of the Universal Service Fund (and the amount which each study area would receive) from June 1985 to June 1984. GTE proposed this as a means of allowing the Commission to ensure that the level of assistance provided represents the proper balance between protection for high cost areas and limitation of toll loading to prevent uneconomic bypass of the local exchange.

29. We find that the basic provisions for the protection of universal service recommended by the Joint Board represent a sound balancing of concern for the promotion of universally available telephone service at reasonable rates and the need to prevent uneconomic bypass of the local exchange based on the information presently available. Although the Joint Board's basic recommendations in this area represent the optimal balance based on the existing record, we recognize that adjustments in the high cost provisions which we are adopting at this time may be necessary. We will be using the high cost data to be filed in June 1984 to further study this matter. We also intend to monitor developments in this area closely and we will make appropriate adjustments if warranted. The filing of high cost data in 1984 and Joint Board monitoring, which are discussed below, will assist us in that effort.

30. We also agree with the Joint Board's plan to direct assistance to high cost areas. This approach will promote universal service by enabling telephone companies and state regulators to establish local exchange service rates in high cost areas that do not greatly exceed nationwide average levels. We recognize that directing assistance to high cost areas will not directly solve the problems of the poor and those living on limited fixed incomes. However, we conclude that providing assistance targeted specifically to these groups is a goal best accomplished through means other than a federally administered program. Programs to assist these groups have traditionally been implemented by the individual states, and we believe that they remain best able to determine and respond to the needs of their citizens. The federal Universal Service Fund will ensure that telephone rates are within the means of the average subscriber in all areas of the country, thus providing a foundation on which the states can build to develop programs tailored to their individual needs.

31. The sliding scale which provides for higher levels of coverage for costs in the upper cost bands is particularly suited to achievement of our dual goals in this area. First, it limits assistance to subscribers in areas with costs close to the national average. Additional assistance in those areas would greatly increase the size of the Fund due to the number of subscribers involved. Second, it provides more assistance to the very high cost areas with the greatest need. The cost of additional coverage in those areas is very modest because only a small number of subscribers are involved.

32. We cannot agree with the parties who argue that the level of assistance provided by the Universal Service Fund should be increased substantially. Measures designed to moderate local telephone rates in high cost areas are desirable, but we believe that the subscribers who receive these benefits should share some of the high cost burden. The cost of housing, electricity and fuel varies substantially from one area of the country to another. The variations in the cost of housing, for example, are quite marked, with equivalent housing costing twice as much in some areas as in others. In light of these variations we see little reason to mandate virtually equal local exchange telephone rates throughout the country [25] by covering all relevant NTS local exchange costs in excess of 110 or 115 percent of the national average.

33. At least one party has also questioned the efficacy of the Joint Board's proposal for assistance to high cost areas, noting that local companies are not required to use the additional interstate expense allocation to keep local rates lower than they otherwise would be, although the Joint Board has stated that this is the intended purpose of the additional interstate allocation. We believe that the interest of state regulatory officials in keeping local rates affordable as well as the watchfulness of individual consumers and local consumer groups will ensure that this assistance is used for its intended purpose. Several of the state members of the Joint Board have stated that the state Commissions would take steps to ensure that this assistance was used to keep local rates lower than they would otherwise be. Furthermore, we are asking the Joint Board to monitor the future use of this assistance. In particular, we are asking the Joint Board to be alert for possible abuses in this area during the course of its monitoring efforts, and to inform us if there is evidence that this assistance is not being used for its intended purpose. Widespread use of the high cost

[25] For further discussion of the protection for high cost areas see the Second Recommended Decision and Order at paragraphs 59 through 65.

assistance to subsidize the cost of business services, or intrastate toll, for example, could lead us to reexamine the need for the Universal Service Fund.

34. Contrary to the contentions of MCI and SBS, we believe that the apportionment of high cost or universal service factor costs is within our discretion under the Communications Act and the relevant case law. The Joint Board's high cost factor recommendation does, of course, differ from the base factor recommendation in that the non-cost criteria are not neutral with respect to the rate impact upon users of different services. The high cost factor was expressly designed to enable telephone companies and state commissions to establish local exchange service rates in high cost areas that do not substantially exceed nationwide average local exchange service rates. That decision is entirely proper in view of our conclusion in the *Access Charge Order, supra* note 12, that universal service is one of the goals of the Communications Act. On the contrary, we could not fulfill our obligations under the Act if we did not consider possible effects upon universal service in adopting rules for the apportionment of commonly used non-traffic sensitive plant.

35. MCI also asserts that the high cost factor apportionment is a tax upon interstate carriers or users of interstate services or a taking of the property of such carriers or users. We do not believe that these claims have any merit. The provisions recommended by the Joint Board do not apportion any costs to services that do not use the non-traffic sensitive plant in question. All of the costs that are included in the computation of the expense adjustment are attributable to lines that are commonly used for a variety of interstate or intrastate services. Therefore, an apportionment of these costs to interstate services does not subject interstate services to any charge for facilities that such services do not use. Accordingly, this apportionment cannot be characterized as a tax upon interstate services or a taking of the property of interstate carriers or their customers. None of the cases cited by MCI hold or even suggest that such a jurisdictional apportionment of common costs could be described as a tax or a taking.

36. While the basic structure of the Universal Service Fund recommended by the Joint Board is sound based on the record before us at this time, we have decided that the method of calculating the high cost assistance should be modified slightly.[26] Under the approach recommended by the Joint Board, the costs considered in determining eligibility for the additional interstate expense allocation as well as the level of assistance for eligible study areas include: (1) A return component or revenue requirement for net Outside Subscriber Plant (OSP) Category 1.33 plant investment, which includes non-wideband loops between local central offices and subscriber premises jointly used for exchange service and toll message services excluding WATS access lines; (2) maintenance and depreciation expenses associated with this OSP Category 1.33 plant; and (3) a portion of general expenses, certain other expenses and taxes proportionate to this net OSP Category 1.33 investment as a percentage of total net telephone plant investment. The return component for this net OSP Category 1.33 investment is calculated using the actual debt/equity ratio for each study area, the actual cost of debt and the authorized interstate rate of return on equity.

37. As previously mentioned, a number of parties suggested expansion of the plant categories covered by the high cost assistance. We have decided to expand these plant categories to include outside or drop wire and Category 8.13, Subscriber Line Circuit Equipment [27] associated with jointly used non-wideband subscriber loops. Inclusion of these plant categories was supported by most of the parties addressing this question. They emphasized that the length and the cost of outside or drop wire can vary greatly between rural and urban areas. Consequently, the greater average length of the outside wiring would be one of the factors contributing to higher costs in rural areas and therefore should be reflected in determining the high cost assistance. A number of parties stated that the equipment contained in Category 8.13 is necessary to establish local loops and therefore should be included in calculating loop costs for purposes of the additional interstate allocation. REA also pointed out that Category 8.13 Subscriber Line Circuit Equipment includes plant used in providing radio telephone service which is often a cost effective means of serving subscribers in remote locations. Failure to include this in the high cost coverage could create disincentives for the use of this technology. The Joint Board also issued a supplemental recommendation at its meeting on November 30, 1983, recommending inclusion of Category 8.13 and drop and block wire in the plant categories covered by high cost assistance. We agree with the Joint Board's conclusion that these plant categories should be included in calculating the additional interstate expense allocation.[28]

38. On the other hand, we are not expanding the provisions governing calculation of the additional interstate allocation to include additional general, or overhead costs, NTS Category 6 COE or traffic sensitive costs. The provisions for calculation of the additional interstate allocation proposed by the Joint Board include general expenses, other operating expenses in Accounts 671, 672 and 674, and taxes. We do not believe that there is any benefit to be derived from the inclusion of additional categories of overhead and general expenses since no nexus has been established between overhead expenses and high loop costs. Furthermore, we are concerned that inclusion of general and overhead expenses in a formula for assistance to high cost areas could reduce incentives for efficiency. In support of including NTS Category 6 COE in the provisions for high cost assistance, Alaska states that the costs for this plant category are greatly above average in many areas in the state. While Alaska's contention that the costs of NTS Category 6 COE are extremely high in certain areas of the state may be correct, the treatment of NTS Category 6 COE has not been examined by the Joint Board, and we do not believe that any action should be taken on this question until decisions are made concerning the future treatment of this plant. Alaska and REA also urge consideration of high cost assistance for traffic sensitive costs. Again, this question has not been studied by this Joint Board, and, therefore, we do not believe that these costs should be included in this formula. Such questions may, of course, be considered in subsequent proceedings to examine traffic sensitive separations. To facilitate and expedite study of these questions we are asking each telephone company study area to report data on its NTS and TS Category 6 COE costs to the NECA in June 1984 along with the other

[26] *See* paragraph 29 supra.

[27] Circuit equipment includes: Central office equipment other than switching equipment, which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing or control of signals transmitted over communications transmission channels.

Separations Manual, Paragraph 24.01 (now § 67.140(a)).

[28] Inclusion of drop lines and Subscriber Line Circuit Equipment in the high cost calculations will also make those calculations more consistent with the computation of the common line revenue requirement for purposes of the access charge rules.

data related to calculation of the amount of high cost assistance.[29]

39. As previously mentioned, GTE recommended that local telephone companies submit the data related to calculation of the additional interstate allocation to the National Exchange Carrier Association (NECA) in June 1984 rather than 1985. All of the parties who commented on this subject supported GTE's proposal. We agree that the high cost data should be filed for the first time in June 1984, although the additional interstate allocation will not begin to be implemented until 1986. The telephone companies should file 1983 data even though they may not be able to provide data for that year which is precise enough for the calculation of actual high cost distributions. This information should provide a much clearer picture of the size and distribution of the Fund. Filing cost data in 1984 will impose some additional administrative burdens on local telephone companies, but we conclude that the additional work load is justified. Submission of this data in 1984 will allow us to review the effects of the Universal Service Fund formula and make any necessary adjustments before the transition period begins. This is particularly important in light of our decision to expand the plant categories covered by the additional interstate expense allocation. At its November 30, 1983 meeting, the Joint Board recommended that the Commission move the date for filing the high cost data up to June 1984. The Joint Board stated that it intended to use this data to examine the results produced by the high costs provisions, including the level of assistance to high growth areas and stated that it would issue supplemental recommendations if adjustments were desirable.[30] We endorse this approach by the Joint Board.

40. The Joint Board also recommended use of each company's actual debt/equity ratio and cost of debt in calculating the additional interstate expense allocation for high cost areas.[31] It proposed use of the authorized interstate rate of return on equity of 17.5 percent as the cost of equity. This is the AT&T authorized return on equity. The Joint Board stated that these measures were necessary in order to direct support to areas which actually had high costs since there are wide variations in the cost of debt. Some study areas have an embedded cost of debt below 5 percent while others have a much higher cost of debt reflecting the interest rates in recent years. REA and most of the organizations representing small independent telephone companies strongly opposed this provision. They argued that use of the actual cost of debt would deprive REA borrowers of the benefits of the below market rate loans offered by REA to foster the development of telephone service in rural areas. These parties also argued that imputing the authorized AT&T interstate rate of return on equity to their operations was inappropriate, taking the position that the Commission would be required to prescribe an actual rate of return on equity for each company if it used the actual cost of debt.

41. Based on the record currently before us in this proceeding we are adopting the Joint Board's recommendations for the computation of the return component. Due to the importance of this question, we are also asking the Joint Board to study this area further and prepare additional recommendations if appropriate. Based on the current record, it does not appear that use of the actual capital structure and embedded cost of debt will deprive REA borrowers of the intended benefits of the low interest rate loan program. An REA loan will still decrease the cost of providing service, allowing local rates which are lower than they would be if the plant had been financed through a loan at prevailing market interest rates. The Joint Board's proposal simply means that the fact that a company is already benefitting from a low interest rate loan will be taken into account in determining the level of support to be provided through a second assistance mechanism. Failure to consider this would result in a disproportionate amount of assistance to areas with low capital costs. We do not believe that a determination of the actual cost of equity for each company is necessary if the actual capital structure and cost of debt are used in determining the additional interstate expense allocation. As a general matter, the cost of equity is higher for companies with a very high proportion of debt financing as is the case with many small independent telephone companies. However, the AT&T authorized interstate rate of return on equity of 17.5 percent appears to be entirely adequate for small independent telephone companies under today's economic conditions.[32] Despite this, some adjustment might be appropriate if the return on equity were to be reduced significantly in future Commission proceedings.

42. We recognize that the cost of capital used in determining the additional interstate expense allocation is different from that used in calculating access charges under Part 69 of the Commission's rules which mandated use of the AT&T authorized interstate rate of return (12.75 percent) for the present. *Access Charge Order*, FCC No. 82-579, at paras. 252-254. We believe that the possible administrative burdens involved in using different costs of capital for these two calculations is more than offset by the benefits of directing the high cost assistance to the areas with the greatest need. However, we are revising the *Manual* language recommended by the Joint Board to specify that the rate of return on equity to be used in calculating the additional interstate expense allocation is the rate of return on equity prescribed for use in calculating interstate access charges. Clarification is necessary because an interstate rate of return for access service may be prescribed at some future date that differs from the authorized return for AT&T.

43. We believe that the Joint Board's recommendations concerning the cost of capital to be used in calculating the high cost assistance are justified on the basis of the present record and we are adopting these recommendations. However, we are asking the Joint Board to study this area further and prepare additional recommendations if appropriate.

44. The Joint Board recommended that a portion of the end user common line revenue requirement also be included in the Universal Service Fund that will be recovered through carrier common line access charges. This access charge cap would be implemented through division of the end user common line revenue requirement, calculated pursuant to Part 69 of the Commission's rules, into a subscriber access charge amount (which will be recovered from subscribers through flat fee access charges) and a high cost amount to be recovered through the Universal Service Fund. We agree with the Joint Board's conclusion

[29] In particular, each telephone company study area should submit the information specified in Paragraph 62.11 (now § 67.611(a)) for OSP 1.33 for both NTS and TS Category 6 COE with the relevant amounts for each stated separately.

[30] In the Second Recommended Decision and Order, the Joint Board stated that it intended to study this matter and would issue a supplemental recommendation if necessary.

[31] Pursuant to the Joint Board's recommendations, the actual debt/equity ratio and cost of debt would be used in calculating the return component or revenue requirement for the relevant NTS plant categories. This return component is added to the relevant expenses to determine the additional interstate expense allocation for each study area.

[32] Prescribing a cost of equity for each local telephone company is not feasible since there are approximately 1,500 different local companies.

that it is essential to impose a cap on the end user charges that will be paid by subscribers pursuant to Part 69 of our rules. Such a provision is necessary to ensure reasonable subscriber access charges in high cost areas. The flat 25 percent interstate allocation for MTS local exchange costs will result in an interstate allocation that is a function of the cost of service. Thus, a study area with NTS costs that are four times the national average would have a correspondingly high interstate allocation. If this NTS allocation were recovered solely through subscriber access charges, it could have a significant adverse effect on telephone subscribers.

45. MCI argues that the Commission cannot adopt a subscriber access charge cap which as a practical matter amends Part 69 of the rules in the context of this proceeding. We find that there is merit to MCI's contention that this provision should be contained in Part 69 of the rules rather than the *Separations Manual*. The procedures for computing the cap adjustment would not have any effect on the computation of the intrastate revenue requirement and should not be described as a jurisdictional separations rule.

46. In order to avoid any possibility of procedural irregularity we have decided not to adopt the access charge cap recommended by the Joint Board in this proceeding. Instead, we will issue a *Notice of Proposed Rulemaking* in the near future inviting comments on proposed amendments to the access charge rules which will reflect the substance of the Joint Board plan for an access charge cap. This delay will not prejudice consumers.

47. We view this decision as a matter of "housekeeping detail", and it should not be viewed as undermining our conclusion that an access charge cap such as that recommended by the Joint Board is integral to the successful implementation of access charges. Such an approach will also be more consistent with the division of authority between the state and federal jurisdictions under which changes in the jurisdictional separations procedures require the preparation of a recommended decision by a Federal-State Joint Board pursuant to Section 410(c) of the Communications Act, while the determination of the manner in which costs allocated to the interstate jurisdiction are to be recovered is not subject to this requirement.[33]

48. In its *Second Recommended Decision*, the Joint Board recommended that the Commission extend the Joint Board's mandate to include monitoring the implementation of access charges and the proposed separations changes. We are very much aware of the need to monitor developments in this area so that we can make appropriate adjustments in a timely fashion should this be necessary. We conclude that the experience and expertise which the Joint Board has developed during the course of this proceeding will be a valuable aid to the Commission's monitoring efforts in this area. Their involvement will help ensure that any possible problems in terms of subscriber discontinuance or accelerating rates of bypass will be brought to our attention in their early stages so that timely adjustments can be made. Accordingly, we are accepting the Joint Board's offer to assist us in our monitoring efforts related to access charges and separations. We are developing an access charge monitoring plan in Phase IV of the *Access Charge Proceeding*, and we will provide further specifics concerning the Joint Board's role in access charge monitoring in the context of that proceeding. Of course, we would welcome proposals from the Joint Board concerning its role in monitoring the implementation of access charges. We are also asking the Joint Board to prepare proposals for monitoring implementation of the separations charges we are adopting in this *Decision*.

IV. Transition

49. The Joint Board recommended a gradual transition from the present SPF based system of NTS local exchange cost allocations to the new system based on the flat 25 percent interstate allocation for all study areas combined with an additional interstate allocation for high cost areas. The Joint Board proposed continuing the use of frozen percentage SPF [34] during 1984 and 1985 followed by a four step transition to the new 25 percent interstate allocation. The high cost additive would also be implemented in four equal steps. The Joint Board also recommended limiting to ten percentage points the total annual decrease for any study area in the interstate allocation for Category 1.33 and inside wire after the high cost additive is taken into account.[35]

50. The parties who adressed the transition question expressed almost unanimous support for continued use of SPF during 1984 and 1985. We find that this approach is desirable because it will eliminate the need for telephone companies to begin implementing major changes in separations during the first two years of the access charge transition. Implementing the other more immediate separations changes will require significant efforts on the part of local telephone companies, and we do not believe that we should increase this burden by instituting the transition to the new NTS allocation methodology immediately.

51. Although SNET, Bell South and Southwestern Bell supported the entire trransition plan, several parties, including the Independent Alliance [36] and the New York Department of Public Service proposed extending the transition period. Vermont also proposed an alternate transition plan to cushion the effect on high SPF/low cost areas. It is true that some study areas with high SPFs and average of low costs will experience substantial increases in their intrastate revenue requirements as a result of the new NTS allocation methodology. Despite this, we agree with the Joint Board's conclusion that a four step transition is adequate to avoid undue hardships when combined with the ten percentage point limitation on the annual reduction in each study area's NTS allocation. The only companies that will experience major decreases in their interstate allocations are average or low cost companies with high SPFs. These companies receive disproportionately large benefits under the present separations system because they allocate an unusually high percentage of their NTS local exchange cost to the interstate jurisdiction. Telephone companies in these circumstances have often been able to maintain very low local exchange rates under the present system. Even when the new separations system is fully implemented, such companies should have average local rate levels because they have average or below average costs. While high SPF/low cost

[33] While we endorse the Joint Board's recommendation that the additional interstate expense allocation and the high cost portion of the end user access charge be recovered through the usage based carrier's carrier charges, a change in this method of recovering the Universal Service Fund revenue requirement would not require a Joint Board recommendation since it does not involve the allocation of costs between the jurisdictions.

[34] The Joint Board recommended continued use of each study area's existing frozen percentage SPF. We agree that SPF should not be recalculated to reflect changes such as the adoption of seven day traffic studies or the recognition of interstate FX/CCSA open end usage when we are moving toward an equal percentage interstate allocation for all areas independent of usage.

[35] The Joint Board recommended that the high cost assistance be implemented in four steps even if the study area involved qualified for an extended transition to the 25 percent interstate allocation. We agree with this approach.

[36] The Independent Alliance is composed of the Roseville Telephone Company, Northern States Power, and Anchorage Telephone Utility.

companies need some time to adjust to the changes resulting from the new allocation methodology, there is no need to further extend the proposed transition period for them in light of the fact that the end result will only be a movement from unusually low local rates to charges that are closer to the national average. We find, however, that certain minor modifications should be made in the way that the 10 percentage point reduction cap is calculated. Accordingly, we are including OSP Category 1.33, and inside wire, drop and block wire and Category 8.13 Subscriber Line Circuit Equipment associated with OSP Category 1.33 as well as associated maintenance and depreciation in this calculation.

V. Other Changes

52. The Joint Board also recommended changes in a number of additional areas.[37] The recommendations which received the most attention from commenting parties involved: (1) The treatment of ENFIA usage; (2) the recognition of interstate open end FX/CCSA/ONALS usage in allocating traffic sensitive Category 6 COE; (3) the direct assignment of closed end WATS access lines; (4) the separations treatment of Centrex/CO facilities; (5) the separations treatment of revenue accounting and business relations expenses related to access charges; (6) the definition of outside plant categories; (7) the development of traffic study methodologies; (8) the establishment of a separations data bank; (9) the treatment of both NTS and TS Category 6 COE; and (10) the appropriate effective date for these changes. Each of these matters is discussed below.

53. *ENFIA Usage.* The Joint Board proposed revisions to the *Separations Manual* designed to recognize usage of local exchange plant by competitive message services provided by interexchange carriers other than AT&T (referred to as ENFIA usage). The Joint Board concluded that changes to reflect outside plant usage by competitive message services would not be necessary in light of its recommendation of a fixed percentage interstate allocation for commonly used subscriber lines and the present *Separations Manual* description of OSP Category 1.2 as including toll connecting facilities. It interpreted the description of OSP Category 1.2 as covering transport facilities for all interexchange carriers. The Joint Board also recommended recognizing usage by competitive message services in the allocation of traffic sensitive Category 6 COE costs, without application of weighting factor for interstate use by these services.

54. The comments revealed a division of opinion concerning the treatment of competitive message service use of TS Category 6 COE. AT&T and GTE supported the unweighted treatment of traffic sensitive Category 6 COE usage by existing competitive message services, but GTE said that equal access trunk usage should be subject to weighting factors. SBS and GTE Sprint also support this approach. Several other parties including Southwestern Bell, United States Telephone Association, and United Telephone System supported application of a weighting factor to ENFIA B and/or C usage because it involves a trunk side connection.[38] USTA and GTE also contended that the voice grade central office connecting facilities (VGCOCFs) used by the OCCs in the provision of their interstate services should be treated as loop rather than trunk plant. We agree with the Joint Board's recommendation that existing competitive message service use of traffic sensitive Category 6 COE be unweighted. ENFIA B and C do involve trunk side connections, but these connections are still not the equivalent of the trunk side connections received by AT&T. ENFIA B and C usage also constitutes a very small percentage of all competitive message service use, and with the availability of equal access in the near future there is no reason to expect substantial growth in the usage of ENFIA B and C. As a result, we conclude that calculating ENFIA B and C usage and developing proper weighting factors for them [39] would require more administrative effort than is justified by the small increase in the precision of the allocation of TS Category 6 COE costs. However, we agree with GTE that the weighting factor applied to MTS and WATS use of traffic sensitive Category 6 COE should be applied to the use of such equipment by competitive message services employing equal access trunks.

55. We also agree with the Joint Board's conclusion that the VGOOCFs used by the OCCs should be treated as local exchange trunk plant for separations purposes since this treatment is necessary for consistency with the Commission's access charge rules. The access charges rules establish a dichotomy between trunks that are classified as "transport" and lines to end user premises that are included in the "common line" element.

56. *FX/CCSA/ONALs Service.* The Joint Board recommended allocating all traffic sensitive plant costs, expenses, and revenues attributable to interstate FX/CCSA/ONALS [40] open end access services to the interstate jurisdiction. The Joint Board also concluded that no toll weighting factor would be applied to interstate FX/CCSA/ONALS use of central office equipment. Few of the parties filing comments addressed the Joint Board's proposals for the treatment of interstate FX/CCSA/ONALS service, although CP National, Southwestern Bell and National Data stated that they supported this treatment of FX/CCSA/ONALs service. GTE, Centel and Pacific asked the Commission to clarify that the term "ONALs" or Off Network Access Line Service includes LONALs or Local Off Network Access Line Service. We believe the language the Joint Board has chosen is sufficiently broad to include all forms of open end access for FX, CCSA and similar services.

57. USTA, GTE, United, Centel, Pacific Telephone and National Data urged the Commission to provide for the direct assignment of the closed ends of FX and CCSA access lines to the appropriate jurisdiction. The rules proposed by the Joint Board do assign all private lines including FX and CCSA closed end loops directly to the intrastate or interstate jurisdiction.

58. ARINC did not oppose the Joint Board's recommenations concerning the treatment of FX/CCSA/ONALS, but urged establishment of a five year transition period for implementation of these changes to prevent rate shock for the users of these services. ARINC estimated that adoption of the Joint Board's recommendations would result in rate increases for FX/CCSA/ONALs service of approximately $56 million for the airline industry in 1984. MCI opposed a transition period for implementation of the FX/CCSA/ONALs charges.

59. ARINC's complaint appears to be directed to the treatment of FX and CCSA open end access in the access charge rules rather than separations changes which merely reflect the

[37] These changes are described in paragraph 4, *supra.*

[38] For a discussion of ENFIA A, B, and C services see the *Order Requesting Further Comments,* CC Docket No. 80-286, Mimeo No. CC 32408, at pages 47-48, released on November 15, 1982.

[39] Developing proper weighting factors would be particularly difficult in the case of ENFIA B which allows the OCC the choice of a number of optional services to go with the trunk side connection and, therefore, could require the development of a number of weighting factors.

[40] For a description of these services see the *Order Requesting Comments* CC Docket No. 80-286, Mimeo No. CC 32408, at page 39, released November 15, 1982.

jurisdictional status of these services. The access charge rules were designed to remedy the longstanding discrimination between FX and MTS users. Indeed, this was one of the central purposes of the *Access Charge Proceeding*. Any adverse effect upon FX users has, of course, long been anticipated. We described a plan to establish parity between FX and MTS users in the *Second Supplemental Notice* in CC Docket No. 78–72, 77 FCC 2d 224 (1980). The final access change rules which we adopted in December 1982 accomplished that purpose in a somewhat different way.[41] A transition would not be warranted under these circumstances.

60. *WATS Closed End Access Lines.* The Joint Board recommended direct assignment of WATS closed end access lines to the appropriate jurisdiction, rather than allocation of the relevant costs between the jurisdictions. SBS opposes direct assignment of WATS access lines. MCI also criticizes the direct assignment of WATS access lines. GTE Sprint supports direct assignment of WATS access lines, but recommends that this treatment be phased in to coincide with the implementation of equal access for the OCCs. SBS and MCI also urged that any provision for direct assignment of WATS access lines be phased in over the same period that equal access is implemented. They contend that direct assignment of WATS access lines would substantially decrease the costs associated with WATS and give AT&T a substantial competitive advantage since the OCCs cannot offer WATS on an economically viable basis without equal access. United and National Data opposed phasing in the direct assignment of WATS.

61. We believe that, in principle, direct assignment of closed end WATS access lines is the most rational method of allocating these costs. However, we believe that the questions raised by the OCCs concerning possible distortions in the competitive marketplace which could result from the direct assignment of WATS access lines warrant deferral of Commission action on this proposal. We believe that there is a need for further study of the impact of such treatment and consideration of whether any other regulatory changes are necessary to accommodate this modification of the historical treatment of WATS closed ends. Accordingly, we will retain the existing separations treatment of WATS access lines for the present and refer this question to the Joint Board for consideration of the questions raised by the OCCs.

62. *Centrex/CO Service.* Although the Joint Board did not recommend any separations changes related to the allocation of local loops used for Centrex/CO services, several parties addressed this matter in their comments.[42] Southwestern Bell urged use of PBX trunk equivalency ratios [43] in counting Centrex lines. Ameritech also presented a proposal for allocation of Centrex/CO lines using PBX trunk equivalency ratios. NYNEX took the position that Centrex/CO separations changes are premature. NYNEX said that access charges will undermine the viability of Centrex/CO service, but stated that the proposed separations changes would have significant local rate effects. It urged study of this matter by the Joint Board before any changes are adopted. GTE Sprint opposes the Centrex/CO separations proposals, arguing that they are essentially an untimely attempt to evade access charges. The North American Telephone Association (NATA) also urged rejection of the proposed separations changes for Centrex/CO services.

63. We agree with the parties who have concluded that these proposals are untimely. Changes in the separations treatment of Centrex lines have never been considered by the Joint Board. The Joint Board may consider such recommendations in connection with its monitoring activities and may submit a supplemental recommendation if it concludes that a change is warranted.

64. *Revenue Accounting Expense.* The Joint Board rejected an AT&T proposal to revise the apportionment of revenue accounting expenses because the AT&T proposal would not be consistent with this Commission's access charge rules. (*Recommended Decision*, para. 112). However, the AT&T comments which included that proposal were prepared before we adopted the access charge rules.

65. GTE noted that the existing *Separations Manual* provisions that would be retained under the *Recommended Decision* are also inconsistent with the access charge rules in that Part 6 of Section 4 does not contain any category for access charge billing expenses. GTE suggested that this be remedied by creating two new categories of revenue accounting expense for end user access charge billing expense and carrier access charge billing expense. It proposed that each category be apportioned equally between intrastate and interstate operations in states that adopt that category of access charges and that all of the expense be assigned to interstate operations in states that do not adopt that category of access charges. Similar proposals have been advanced in the comments of USITA, United Telephone System and Centel.

66. None of the reply comments have expressed opposition to the GTE proposal for the apportionment by access charge billing expense. Therefore, we have decided to adopt that proposal with one modification. The revised access charge rules permit end users or interexchange carriers to order special access facilities and the charges and associated surcharges will be assessed to the end user if the end user elects to order the facility directly. The revised Section 69.406 of the access charge rules establishes two categories for purposes of apportioning revenue accounting expense that is attributable to access charge billings—expenses attributable to end user common line billings and expenses attributable to all other access charge billings. Special access and special access surcharge billings to carriers or end users are included in the second category. We have decided to adopt the same two categories for separations purposes.

67. *Outside Plant Categories.* The Joint Board recommended a number of minor changes in the Outside Plant Categories.[44] Except for the creation of a new Category 3 for host-remote complexes, the Joint Board made no significant changes in the two major categories of outside plant—Category 1 exchange plant and Category 2 interexchange plant—because it concluded that the existing categories basically corresponded with the local access and interexchange categories in

[41] The original plan included a complex adjustment to reflect local exchange business rate or B–1 billings for FX/CCSA access service. The final plan eliminated that adjustment because we assumed that separations rules recognizing the interstate status of interstate FX would be in place by the time the access charge tariffs became effective.

[42] In the *Access Charge Reconsideration Order* at para. 49, the Commission stated that the Joint Board should examine the effects of access charges for Centrex/CO lines in the context of its monitoring activities.

[43] Large organizations can satisfy their need for access to the public switched network and access to different telephone stations within their own premises by subscribing to Centrex/CO service or by leasing or purchasing a PBX or Private Branch Exchange. In the case of Centrex/CO service each telephone has a line to the central office and intercom switching is performed at the central office. If there is a PBX, each telephone is connected to the PBX and there are a limited number of lines between the PBX and the central office. Intercom switching is performed at the PBX.

[44] A number of these proposals such as the direct assignment of WATS access lines and the treatment of VGCOCFs used by the OCCs as local exchange trunks rather than subscriber loops, are discussed elsewhere in this section.

the access charge plan. The Joint Board recommended some minor revisions in the exchange category to achieve greater consistency with the access charge plan. It proposed revising Category 1.1 to include only wideband loops. Under its proposals Category 1.2 would include both wideband and non-wideband trunks and Category 1.3 would include non-wideband loops. Centel argues that existing definitions of exchange and interexchange outside plant (Categories 1 and 2) do not correspond precisely with the access/interexchange dichotomy in the access charge rules. The Joint Board's *Second Recommended Decision* does not alter those definitions apart from the creation of a new category for host/remote plant, and we do not believe that the record is adequate to permit us to adopt refinements in the definitions at this time.

68. U.S. West requests that the *Manual* language concerning the allocation of wideband message facilities be amended to delete the requirement that these facilities be apportioned based on the type of wideband facility involved. It states that this plant is presently apportioned on the basis of the usage for each service, and that the proposed change would result in major record keeping and usage measurement problems. We agree that the existing allocation methodology should be continued.

69. GTE recommends expanding the four proposed subcategories of subscriber outside plant to seven in order to make separations changes more consistent with the access charge rules. We are not adopting this proposal because we conclude that additional subscriber outside plant categories are not necessary for consistency with the access charge rules.

70. *Seven (Calendar) Day Traffic Studies.* The Joint Board recommended that all companies (which use cost based separations procedures) be required to use seven (calendar) day studies as the basis for separations usage measurements. It recommended accomplishing this by providing that traffic studies must cover a representative period "for all traffic." The *Manual* had previously required only the use of a representative period. The Rural Telephone Coalition objects to the change in *Separations Manual* language because it believes this change will prejudice claims that the present *Manual* requires seven day studies. The Chief, Common Carrier Bureau addressed the interpretation question under the present *Manual* in *Reservation Telephone Cooperative,* and concluded that the present *Manual* does not specify a particular study period.[45] We agree with the Joint Board's recommendation that seven (calendar) day studies be used as the basis for separations usage measurements. We conclude that the recommended change in the *Manual* language should be adopted to accomplish this change.

71. *Separations Data Bank and Technical Staff.* Some of the parties have renewed proposals to create a technical staff and an information bank. The Joint Board concluded that the technical staff proposal was not desirable and that the information bank proposal should be considered outside of the context of this proceeding. *See* paras. 108–111 of the *Second Recommended Decision.* We agree with the Joint Board's conclusions in this regard. It may well be desirable to facilitate greater public scrutiny of the separations process, but additional study is needed before adoption of specific measures to accomplish this. Since this question does not involve the separation of costs, it can be studied outside of the Joint Board process. We agree that the creation of a technical staff could create additional delay.

72. *Category 6 COE and Peak Period Traffic Studies.* Several parties have proposed additional changes in the apportionment of Category 6 Central Office Equipment and other traffic sensitive plant which can and should be considered in the traffic sensitive separations proceeding. For example, AT&T proposes the elimination of the NTS subcategory within Category 6, while GTE Sprint and others advocate the use of peak/offpeak usage measurements. The record that has been developed in this proceeding is not adequate to enable us to make such changes at this time. We do, however, view these subjects as open questions which warrant further study.

73. One traffic sensitive question that has been raised in these comments appears to warrant consideration prior to the completion of any comprehensive reexamination of traffic sensitive separations. Southwestern Bell has recommended the creation of a separation category for costs that will be incurred to provide equal access to all interexchange carriers. It claims that the application of the existing formula could result in the inclusion of some of these costs in local exchange rates. It would not be proper for us to adopt changes at this time because this question has never been considered by a Joint Board. We have concluded, however, that this Joint Board should be asked to examine this question and to submit a recommendation to us. Inasmuch as the divested Bell Operating Companies will be incurring such costs in the near future, we encourage the Joint Board to give this question priority consideration.

74. *Miscellaneous.* AT&T proposed a number of specific changes in the technical proposals made by the Joint Board. It recommended modifying *Manual* Paragraph 24.131 (now § 67.131(c)(1)) to specify that direct assignments of power equipment, not dependant on common power equipment, be excluded from consideration in determining the distribution of the cost of common power equipment among the categories. It recommended modification of Paragraph 11.251 (now § 67.2(e)(1)) to specify that indirect costs associated with CPE (expenses, taxes, and reserves) will continue to be phased out as is now the case. AT&T proposed the addition of a new Paragraph 42.327 to segregate WATS access testing expenses from those for private line services, and allocate them on the basis of the relative number of working WATS access loops providing state and interstate service. AT&T also recommended modification of Paragraph 49.31 (now § 67.413(a)) concerning the allocation of property taxes to clarify that a study area approach is acceptable rather than case-by-case cost studies. In addition, AT&T suggested revision of Paragraph 11.26 (now § 67.2(f)) to specify that it was intended to pertain to billed costs. With the exception of the proposal for the segregation of WATS access testing expenses, we conclude that these proposals represent clarifications or improvements on the existing provisions and we adopt them. We will not approve the segregation of WATS access testing because the record in this proceeding does not establish a need for this change.

75. *Effective Date.* The Joint Board recommended that the proposed separations changes other than the basic allocation factor and the assistance for high cost areas be effective January 1, 1984, the same date as the access charge tariffs. We agree with the Joint Board's conclusion that these changes should be effective at the same time as the access charge tariffs. That date is now April 3, 1984 unless the issues raised by the access charge and related tariff filings are resolved prior to that date.

76. *Regulatory Flexibility Certification.* We certify that the Regulatory Flexibility Act is not

[45] Mimeo No. 2037, released July 17, 1981. An application for review of this ruling is pending.

applicable to the rules we are adopting in this proceeding. Although some local exchange carriers are very small, local telephone companies do not appear to fall within the Regulatory Flexibility Act's definition of a "small entity." The Act incorporates the definition of a "small business" in Section 3 of the Small Business Act as a definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. Exchange carriers, even small ones, enjoy a dominant monopoly position in their local service area. This Commission has found all exchange carriers to be dominant in the *Competitive Carrier Rulemaking*, 85 FCC 1, 23–24 (1980). To the extent that interexchange carriers may be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of small entities.

VI. Ordering Clauses

77. Accordingly, it is ordered, That the recommendations of the Federal-State Joint Board, as modified herein, are adopted pursuant to Sections 1, 4(i), 4(j), 221(c), and 410(c) of the Act, 47 U.S.C. 151, 154(i), 154(j), 221(c) and 410(c) (1976).

78. It is further ordered, That except as provided in Attachment B of this *Decision and Order*, the amendments to the *Separations Manual*, set forth in Appendix A of the *Second Recommended Decision and Order* of the Federal-State Joint Board are adopted effective April 3, 1984.

79. It is further ordered, That the amendments to the *Separations Manual* set forth in Attachment B of this *Decision and Order* are adopted effective April 3, 1984.[46]

80. It is further ordered, That the provisions of the *Separations Manual*, as modified herein, are hereby codified [47] as set forth in Attachment A of this *Decision and Order*.

81. It is further ordered, That the Motions for Leave to File Late Comments filed by the Vermont Public Service Board and the Northern American Telephone Association are granted.

[46] The Joint Board's Second Recommended Decision and Order was submitted to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act. OMB did not comment on the Joint Board's Recommendations.

[47] The *Separations Manual* has been incorporated by reference in Part 67 of our rules. We are codifying the *Manual* and publishing the full text in our rules at the request of the Office of the Federal Register.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment A

47 CFR is amended by revising Part 67 to read as follows:

PART 67—JURISDICTIONAL SEPARATIONS PROCEDURES: STANDARD PROCEDURES FOR SEPARATING TELEPHONE PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES.[1]

Subpart A—General

General

Sec.
67.1 General.
67.2 Fundamental principles underlying procedures.

Subpart B—Telephone Property

General

67.101 Section arrangement.
67.102 General.

Land and Buildings

67.111 General.
67.112 Land.
67.113 Buildings.

Outside Plant

67.121 General.
67.122 Categories of outside plant.
67.123 Assignment of outside plant to categories.
67.124 Exchange outside plant categories and appointment procedures.
67.125 Interexchange outside plant categories and appointment procedures.
67.126 Host/remote message outside plant category and apportionment procedures.

Central Office Equipment

67.131 General.
67.132 Categories and apportionment procedures.
67.133 Manual telephone switching equipment—category 1.
67.134 Dial tandem switching equipment—category 2.
67.135 Intertoll dial switching equipment—category 3.
67.136 Automatic message recording equipment—category 4.
67.137 Other toll dial switching equipment—category 5.
67.138 Local dial switching equipment—category 6.
67.139 Special services switching equipment—category 7.
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Station Equipment

67.151 General.
67.152 Station equipment categories and apportionment procedures.
67.153 Phase out and termination of interstate apportionment of customer premises equipment in accounts 231 and 234.

Furniture and Office Equipment, Vehicles and Other Work Equipment

67.161 Furniture and office equipment—account 261.
67.162 Vehicles and other work equipment—account 264.

Organization, Franchises, Patent Rights, Telephone Plant Acquired and Telephone Plant Sold

67.171 Organization—account 201, franchises—account 202, and patent rights—account 203.
67.172 Telephone plant acquired—account 276, and telephone plant sold—account 277.

Telephone Plant Under Construction, Property Held for Future Telephone Use and Telephone Plant Acquisition Adjustment

67.181 Telephone plant under construction—account 100.2.
67.182 Property held for future telephone use—account 100.3.
67.183 Telephone plant acquisition adjustment—account 100.4.

Material and Supplies and Cash Working Capital

67.191 Material and supplies—account 122.
67.192 Cash working capital.

Subpart C—Operating Revenues and Certain Income And Retained Earnings Accounts

General

67.201 Section arrangement.
67.202 General.

Operating Revenues

67.211 General.
67.212 Local service revenues.
67.213 Toll service revenues.
67.214 Miscellaneous revenues.
67.215 Uncollectible revenues.

Certain Income Accounts

67.221 Investment credits—net—account 304.
67.222 Interest charged to construction included in interest income—account 313.
67.223 Miscellaneous income—account 316.
67.224 Miscellaneous income charges—account 323.
67.225 Extraordinary income credits—account 360; Extraordinary income charges—account 370.
67.226 Delayed income credits—account 365; Delayed income charges—account 375.

Certain Retained Earning Accounts

67.231 Miscellaneous credits to retained earnings—account 402;
Miscellaneous debits to retained earnings—account 413.

[1] The Commisson has determined that the same jurisdictional separations procedures used in the contiguous states are to be used for Alaska, Hawaii, Puerto Rico and the Virgin Islands. *Integration of Rates and Services*, Docket No. 21263, 87 FCC 2d 18 (1981); *Integration of Rates and Services*, Docket No. 21264, 72 FCC 2d 699 (1979).

Subpart D—Operating Expenses and Taxes

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Sec.
67.301 Section arrangement.
67.302 General.

Maintenance Expenses

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67.314 Repairs or central office equipment—account 604.
67.315 Repairs of station equipment—account 605.
67.316 Repairs of buildings and grounds—account 606.
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67.318 Maintaining transmission power—account 610.
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Depreciation and Amortization Expenses

67.331 Depreciation—account 608.
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67.333 Amortization of intangible property—account 613.
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Traffic Expenses

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67.342 General traffic supervision—account 621.
67.343 Service inspection and customer instruction—account 622.
67.344 Operators' wages—account 624.
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67.346 Operators' employment and training—account 627.
67.347 Central office stationery and printing—account 629; central office house service—account 630; miscellaneous central office expenses—account 631.
67.348 Public telephone expenses—account 632.
67.349 Other traffic expenses—account 633.
67.350 Joint traffic expenses—Dr.—account 634; joint traffic expenses—Cr.—account 635.

Commercial expenses

67.361 General.
67.362 General commercial administration—account 640.
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67.365 Local commercial operations—account 645.
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Revenue Accounting Expenses

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67.382 Toll ticket processing expense.
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Sec.
67.384 Other billing and collecting processing expense.
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General Expenses

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67.402 Operating rents—account 671.
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67.413 Other operating taxes—account 307.
67.414 Accelerated depreciation; income tax deferrals and credits—accounts 307, 308, 309.
67.415 Operating portion of other income tax accounts—accounts 326, 327, and 380.

Subpart E—Reserves

Reserves

67.501 General.
67.502 Depreciation reserve—account 171.
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67.504 Accumulated deferred income taxes—accelerated tax depreciation—account 176.

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67.601 General.

Data Collection

67.611 Submission of information to the National Exchange Carrier Association.
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Calculation of Loop Costs for Expense Adjustment

67.621 National and study area average unseparated loop cost per working loop.
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67.631 Expense adjustment.

Transitional Expense Adjustment

67.641 Transition.

Subpart G—Glossary

67.701 Glossary.

Authority: 47 U.S.C. 151, 48 Stat. 1064, as amended 50 Stat. 189; 47 U.S.C. 154(i), 48 Stat. 1064; 47 U.S.C. 154(j), 48 Stat. 1064; 47 U.S.C. 221(c), 48 Stat. 1080; 47 U.S.C. 410(c), 85 Stat. 363.

Subpart A—General

General

§ 67.1 General.

(a) This Part contains an outline of separations procedures for telephone companies on the station-to-station basis. These procedures are applicable either to property costs, revenues, expenses, taxes and reserves as recorded on the books of the company or to estimated amounts.

(1) Where a value basis is used instead of book costs, the "costs" referred to are the "values" of the property derived from the valuation.

(b) The separations procedures set forth in this Part are designed primarily for the allocation of property costs, revenues, expenses, taxes and reserves between state and interstate jurisdictions. For separations, where required, of the state portion between exchange and toll or for separations of individual exchanges or special services, further analyses and studies may be required to adapt the procedures to such additional separations.

(c) The fundamental basis on which separations are made is the use of telephone plant in each of the operations. The first step is the assignment of the cost of plant to categories. The basis for making this assignment is the identification of the plant assignable to each category and the determination of the cost of the plant so identified. The second step is the apportionment of the cost of the plant in each category among the operations by the application of appropriate use factors or by direct assignment.

(d) In assigning book costs to categories, the costs used for certain plant classes are average unit costs which equate to all book costs of a particular account or subaccount; for other plant classes, the costs used are those which either directly approximate book cost levels or which are equated to match total book costs at a given location.

(e) The procedures outlined herein reflect "short-cuts" where practicable and where their application produces substantially the same separations results as would be obtained by the use of more detailed procedures, and they assume the use of records generally maintained by Class A and B telephone companies.

(f) The classification to accounts of telephone property, revenues, expenses, etc., set forth in this manual is that prescribed by the Federal Communications Commission's Uniform System of Accounts for Class A and

Class B Telephone Companies. For companies subject to other systems of accounts, appropriate adjustments will be required.

(g) In the assignment of property costs to categories and in the apportionment of such costs among the operations, each amount so assigned and apportioned is identified as to the account classification in which the property cost is included. Thus, the separated results are identified by property accounts and apportionment bases are provided for those expenses which are separated on the basis of the apportionment of property costs. Similarly, amounts of revenues and expenses assigned each of the operations are identified as to account classification.

(h) The separations procedures described in this Part are not to be interpreted as indicating what property, revenues, expenses and taxes, or what items carried in the income, reserve and retained earnings accounts, should or should not be considered in any investigation or rate proceeding.

§ 67.2 Fundamental principles underlying procedures.

(a) The following general principles underlie the procedures outlined in this Part:

(1) Separations are made on the "actual use" basis, which gives consideration to relative occupancy and relative time measurements.

(2) In the development of "actual use" measurements, measurements of use are: (i) Determined for telephone plant or for work performed by operating forces on a unit basis (*e.g.*, conversation-minute-mile per message, weighted standard work seconds per call) in studies of traffic handled or work performed during a representative period for all traffic and (ii) applied to overall traffic volumes, *i.e.*, 24-hour rather than busy-hour volumes.

(b) Underlying the procedures included in this manual for the separation of plant costs is an over-all concept which may be described as follows:

(1) Telephone plant, in general, is segregable into two broad classifications, namely: (i) Interexchange plant, which is plant used primarily to furnish toll services, and (ii) exchange plant, which is plant used primarily to furnish local services.

(2) Within the interexchange classification, there are three broad types of plant, i.e., manual switching plant, dial switching plant, and circuit plant. Within the exchange classification there are four broad types of plant, i.e., manual switching plant, dial switching plant, trunk plant, and subscriber plant. Subscriber plant comprises subscriber lines and station equipment.

(3) In general, the bases for apportioning telephone plant used jointly for state and interstate operations are:

(i) Operator work time expressed in weighted standard work seconds is the basis for measuring the use of manual switching plant, except for that portion of traffic service position system (TSPS) investment that is not directly associated with operator positions. Real time (i.e., actual seconds) use of the TSPS processor is the basis for measuring the use of this plant, which includes the stored program control, memory and remote trunk arrangement (RTA).

(ii) Holding-time-minutes is the basis for measuring the use of toll dial switching plant and the traffic sensitive portion of local dial switching plant (see § 67.138(b)), with holding-time-minutes of local dial switching equipment weighted to reflect differences in the average cost per holding-time-minute for switching various classes of traffic.

(iii) Conversation-minute-miles is the basis for measuring the use of interexchange circuit plant and holding-time-minutes is the basis for measuring the use of exchange trunk plant. While the use of holding-time-minute-miles is the basic fundamental allocation factor for interexchange circuit plant and exchange trunk plant, the use of conversation-minute-miles for the allocation of interexchange circuit plant and holding-time-minutes for the allocation of exchange trunk plant are considered practical approximations for separations between state and interstate operations when related to the broad types of plant classifications used herein.

(iv) A subscriber plant factor is the basis for apportioning the cost of message telephone subscriber plant and the non-traffic sensitive portion of local dial switching plant between state and interstate operations, except as otherwise provided. The subscriber plant factor is developed by the use of a two part formula (See § 67.124(d)(4)), the first part of which is designed to develop a basic cost per holding time minute of use for application alike to each exchange and toll holding time minute of use and the second part of which is designed to add to the basis cost thus assigned to each toll holding time minute an additive cost reflective of the fact that toll rate schedules inherently have a deterrent effect on the use of non-traffic sensitive plant and that this deterrent effect increases as the distance of the related toll call increases.

(c) Property rented to affiliates, if not substantial in amount, is included as used property of the owning company with the associated revenues and expenses treated consistently; also, such property rented from affiliates is not included with used property of the company making the separation and the rent paid is included in its expenses. If substantial in amount, the following treatment is applied:

(1) In the case of property rented to affiliates, the property and related expenses and rent revenues are excluded from the telephone operations of the owning company, and

(2) In the case of property rented from affiliates, the property and related expenses are included with, and the rent expenses are excluded from, the telephone operations of the company making the separation.

(d) Property rented to non-affiliates is usually to be included as used property of the owning company with the associated revenues and expenses treated consistently. In the event the amount is substantial, the property involved and the revenues and expenses associated therewith may be excluded from the telephone operations of the company. When required, the cost of property rented to non-affiliates is determined using procedures that are consistent with the procedures for the allocation of costs among the operations.

(e) The procedures set forth herein provide for the exclusion from the interstate allocation of all investments and associated reserves and expenses incurred in connection with customer premises equipment after December 31, 1982. Investments in customer premises equipment on the books as of December 31, 1982 will be phased out over a 60 month period for allocation to interstate operations. If so directed or authorized by an administratively and judicially final order or action issued or taken by the State Commission having jurisdiction in any state, a freeze date earlier than December 31, 1982 may be adopted for any company operating within the state with the concurrence of such company. The amount of investment recorded for separations purposes as of that freeze date shall be deemed to be the amount of investment to be used for separations until January 1, 1983. Thereafter, the provision of this Part shall apply as set forth hereafter. Expenses, taxes and reserves shall be frozen as of the plant freeze date in a manner consistent with the provisions set forth hereafter. Consistent treatment

is required for the reserves and expenses associated with the phase out of the investment in customer premises equipment.

(1) The procedures described in §§ 67.2(e), 67.153, 67.315(e), 67.331(a) (2), 67.392(a) (1) and 67.502(b) shall apply for purposes of interstate apportionment of customer premises equipment and associated expenses, taxes and reserves for companies that provide exchange service regardless of the actual CPE attributable to regulated operations that is recorded on the books of the company. If the amount apportioned to interstate operations exceeds the amount of CPE attributable to regulated operations, the excess shall be deducted from the total investment or total expense apportioned to state operations. Notwithstanding the transfer of CPE from the BOCs to AT&T pursuant to the AT&T divestiture,[2] responsibility for continuation of the five year phaseout of the interstate allocation of CPE and associated expenses, taxes and reserves shall remain with the BOCs.

(f) Costs associated with services or plant billed to another company which have once been separated under procedures consistent with general principles set forth in this Part, and are thus identifiable as entirely interstate or intrastate in nature, shall be directly assigned to the appropriate operation and jurisdiction.

Subpart B—Telephone Property

General

§ 67.101 Section arrangement.

(a) This subpart is arranged in sections as follows:

	Sections
General	67.101-67.102
Telephone Plant in Service—Account 100.1	
Land and Buildings—Accounts 211, 212	67.111-67.113
Outside Plant—Accounts 241, 242.1, 242.2, 242.3, 242.4, 243, 244	67.121-67.126
Central Office Equipment—Account 221	67.131-67.140
Station Equipment—Accounts 231, 232, 234	67.151-67.153
Furniture and Office Equipment—Account 261 and Vehicles and Other Work Equipment—Account 264	67.161-67.162
Organization—Account 201, Franchises—Account 202, Patent Rights—Account 203, Telephone Plant Acquired—Account 276, and Telephone Plant Sold—Account 277	67.171-67.172
Other Telephone Property	
Telephone Plant under Construction—Account 100.2, Property Held for Future Telephone Use—Account 100.3, and Telephone Plant Acquisition Adjustment—Account 100.4	67.181-67.183
Material and Supplies—Account 122 and Cash Working Capital	67.191-67.192

§ 67.102 General.

(a) This section contains an outline of the procedures used in the assignment of telephone property to categories and the apportionment of the cost assigned to each category among the operations.

(b) The treatment of plant rented to and rented from others is outlined in §§ 67.2(c) and 67.2(d). In cases where the amount of such plant is substantial, the cost may be determined by using the general procedures set forth for the assignment of the various kinds of property to categories.

(c) The amount of depreciation deductible from the book cost or "value" is apportioned among the operations in proportion to the separation of the cost of the related plant accounts.

Land and Buildings

§ 67.111 General.

(a) Land and buildings are carried in the following accounts:

(1) Land ..... Account 211
(2) Buildings ..... Account 212

(b) The separation of land and buildings, including improvements to leased quarters, is based upon the use made of the building or quarters, determined normally by an analysis of floor plan layout drawings or of space occupancy reports used in the clearance of house service expense to operating expense and other accounts. The first step in this analysis normally is the determination of the number of square feet of floor space in use in the building or quarters. An average cost per square foot of floor space in use is computed and is used in assigning the building cost to the several categories into which the space in the building or quarters is subdivided. The cost assigned to each category is then apportioned among the operations as outlined below.

(1) At locations where a significant part of the building cost represents the cost of one or more antenna supporting structures mounted on the building, the cost of the antenna supporting structure or structures is first determined and is deducted from the total building cost at the location to obtain the cost associated with building space. This latter cost is then assigned to categories as discussed in § 67.111(b). The cost of antenna supporting structures is assigned to a separate category.

(2) At locations where a building, a building addition or a portion thereof, constructed at the specific request of another company for interstate service only is used or reserved for central office equipment, the cost of this space may be assigned to a separate category. This cost is deducted from the total building cost before apportioning the building cost as described in § 67.111(b).

§ 67.112 Land.

(a) The separation of the cost of land associated with buildings is based on the separation of the cost of the building, or buildings occupying that land. Land not directly associated with buildings, is assigned according to its use. The separation procedures described for buildings are also applicable to land.

§ 67.113 Buildings

(a) *General.* (1) In the separation among the operations of buildings having more than one of the categories described in § 67.113(b), the building cost, including improvements to leased quarters, is first assigned to the various categories as follows:

(i) Determine the cost of any antenna supporting structures associated with the building and assign that cost to its own category, provided such cost is significant (See § 67.111(b)(1)).

(ii) Determine the cost, where applicable, of space constructed at the specific request of another company for interstate service (See § 67.111(b)(2)) and assign that cost to its own category.

(iii) Determine the number of square feet of floor space which is used, i.e., assigned productive space, including space rented to others. Such space excludes (A) unassigned productive space, (B) unproductive space, i.e., space not adaptable to direct occupancy (e.g., that used for stairways, elevator shafts, heating and ventilating systems), and (C) space described in paragraph (a)(1)(ii) of this section.

(iv) Divide the building cost, other than that described in paragraph (a)(1)(i) and (ii) of this section by the number of square feet of floor space in use and rented to others as determined in (iii).

(v) Apply the unit cost in paragraph (a)(1)(iv) of this section to the number of square feet of space assigned to each category to obtain the building space cost assignable to each category.

(A) In assigning costs to categories, generally each building is treated individually, but several buildings may be treated as a group, provided such

[2] The Modified Final Judgment in United States v. AT&T, 552 F. Supp. 131, *aff'd sub. nom.* Maryland v. U.S. 51 U.S.L.W. 3628, February 28, 1983 generally requires AT&T to divest itself of its operating companies which provide local telephone service.

grouping does not change the separations results.

(2) The building cost assigned to each category is then apportioned among the operations through the application of appropriate use factors or by direct assignment as described in § 67.113(b).

(3) Certain large areas, e.g., medical offices, general employment offices, space occupied by data processing equipment, may require assignment to more than one of the categories in § 67.113(b). This assignment is based on the use of the space or the equipment occupying that space.

(4) Minor amounts of local plant administrative office space, plant maintenance centers, line assignment centers and other plant service centers may be located in buildings where the major portion of the space is assigned to Categories 1, 7, 9 or a combination of these categories. In buildings that contain only one of these categories, such space may be combined with that category. When the building includes space assigned to more than one category, such space may be combined with the most appropriate category based on the major functions performed in the space, e.g., space for a maintenance center used for maintenance of radio relay facilities is assigned to the central office equipment space category.

(b) *Building Categories and Apportionment Procedures.* (1) Operating Room and Central Office Equipment Space— Category 1—This category includes the space used by central office equipment (e.g., circuit equipment, toll and local switchboards, including traffic service positions, operating rooms, dial switching equipment, automatic message recording equipment, power plants, cable vaults, and space used by personnel when installing or maintaining central office equipment). The cost of this space, excluding space used or reserved for another company's interstate operations as described in § 67.111(b)(2), is apportioned among the operations in proportion to the separation of the cost of the following types of central office equipment:

(i) Manual switchboard equipment.

(ii) Circuit equipment.

(iii) Dial Switching equipment.

(2) Operators' Quarters—Category 2—This category includes space (other than operating rooms) used by switchboard operators, *e.g.*, operators' lounges and lunch rooms. The cost of this space is apportioned among the operations on the basis of the relative number of weighted standard work seconds for all switchboards involved.

(3) General Traffic Supervision Space—Category 3—This category includes the space used by the general traffic supervision forces including that space used solely for operator employment, and that operator training space not assigned to Category 1. The cost of this space is apportioned among the operations in proportion to the separation of General Traffic Supervision expenses.

(4) Commercial Office Space—Category 4—This category includes the space used by local commercial offices, commercial and marketing supervisory forces and other office space used by commercial, marketing, sales, or directory forces, or combinations of these forces. The cost of this space is apportioned among the operations in proportion to the separation of General Commercial Administration, Sales expense, Connecting Company Relations and Local Commercial Operations expense, combined.

(5) Space Used by Another Company for Interstate Operations—Category 5—This category includes space used by employees of another company which is engaged only in the interstate operation, excluding operating rooms, operators quarters and central office equipment space. The cost of this space is assigned directly to the interstate operation.

(6) Revenue Accounting Space—Category 6—This Category includes the space occupied by data processing equipment used primarily for revenue accounting purposes and by employees whose salaries are assigned to revenue accounting operations. The cost of this space is apportioned among the operations in proportion to the separation of Revenue Accounting expenses.

(7) Garages, Storerooms, Warehouses and Pole Yards—Category 7—This category includes the space used for the storage and care of motor vehicles, supplies and equipment. The cost of this space is apportioned among the operations in proportion to the separation of station equipment, outside plant in service and material and supplies, combined.

(8) Space Rented to Others—Category 8—This Category includes all space rented to others, e.g., barber shops, cigar counters. The cost of this space is assigned consistent with the assignment of the association rent revenues.

(9) General Office Space—Category 9—This category includes all office space not included in preceding categories, e.g., space used by accounting (other than revenue accounting), executive treasury, law, engineering and plant supervisory forces, personnel, general archives. The cost of this space is apportioned among the operations in proportion to the separation of general expenses.

(10) Antenna Supporting Structures—Category 10—This Category includes the cost of structures (usually steel towers) used for supporting radio antennae. The cost of those structures is apportioned among the operations in proportion to the separation of the cost of the antennae supported.

(11) Space Constructed at the Specific Request of Another Company for Interstate Service Only—Category 11—This catetory includes the cost of a building, a building addition or a portion thereof constructed at the specific request of another company for interstate services only and used or reserved for central office equipment. The cost of this space is assigned directly to the interstate operation.

Outside Plant

§ 67.121 General.

(a) Outside plant includes the telephone plant in service in the following accounts:

(1) Pole Lines	Account 241
(2) Aerial Cable	Account 242.1
(3) Underground Cable	Account 242.2
(4) Buried Cable	Account 242.3
(5) Submarine Cable	Account 242.4
(6) Aerial Wire	Account 243
(7) Underground Conduit	Account 244

(b) Where exchange and toll subaccounts of Accounts 242.1, 242.2, 242.3, 242.4, and 243 are maintained, plant is generally charged to these subaccounts following certain broad principles, such as major use rather than actual use. Therefore, in a separation of cable and aerial wire outside plant among the operations on an actual use basis, it is necessary to analyze the plant classified as exchange and toll in the subaccounts in order to determine the plant assignable to each of the outside plant categories.

(c) In the separation of the cost of outside plant among the operations, the first step is the assignment of the plant to certain categories. The basic method of making this assignment is the identification of the plant assignable to each category and the determination of the cost of the plant so identified. Because of variations among companies in the character of the plant and operating conditions, and in the accounting, plant and engineering records maintained, the detailed methods followed, of necessity, will vary among the companies. The general principles to be followed, however, will be the same for all companies.

(d) The second step is the apportionment of the cost of the plant in each category among the operations through the application of appropriate use factors or by direct assignment.

§ 67.122 Categories of outside plant.

(a) Exchange Outside Plant—Category 1—This category includes the outside plant other than that in Category 3 in the following three subcategories:

(1) Wideband Subscriber Line Outside Plant—Category 1.1—This category includes the outside plant between local central offices and subscriber premises used for wideband services.

(2) Exchange Trunk Outside Plant (Wideband and Non-Wideband)—Category 1.2—This category includes outside plant between central offices or other switching points used by any common carrier for interlocal trunks wholly within an exchange or metropolitan service area, interlocal trunks carrying extended area service traffic, interlocal trunks with one or both terminals outside a metropolitan service area carrying some exchange traffic, toll connecting trunks, tandem trunks principally carrying exchange traffic, the exchange trunk portion of TWX and WATS access lines, the exchange trunk portion of private line local channels, and the exchange trunk portion of circuits between control terminals and radio stations providing very high frequency maritime service or urban or highway mobile service.

(3) Subscriber Line Outside Plant Excluding Wideband—Category 1.3—This category includes outside plant between local central offices and subscriber premises used for message telephone including WATS access lines and TWX subscriber lines, for private line local channels and for circuits between control terminals and radio stations providing very high frequency maritime service or urban or highway mobile service. This category also includes outside plant between local central offices and public telephones.

(4) The procedures for apportioning the cost of exchange outside plant among the operations are set forth in § 67.124.

(b) Interexchange Outside Plant—Category 2—This category includes outside plant other than that included in Categories 1 and 3, used for message toll and toll private line services. It includes outside plant carrying intertoll circuits, tributary circuits, the interexchange channel portion of special service circuits, circuits between control terminals and radio stations used for overseas or coastal harbor service, interlocal trunks between offices in different exchange or metropolitan service areas carrying only message toll traffic and certain tandem trunks which carry principally message toll traffic.

(1) The procedures for apportioning the cost of interexchange outside plant among the operations, and the description of the following subsidiary categories established for the purpose are set forth in § 67.125:

(i) Outside Plant Furnished to Another Company For Interstate Use—Category 2.1

(ii) Outside Plant Used for Wideband Services—Category 2.2

(iii) All Other Interexchange Outside Plant—Category 2.3

(c) Host/Remote Message Outside Plant—Category 3—This category includes the cost of message host/remote location outside plant for which a message circuit switching function is performed at the host central office. It applies to outside plant facilities between host offices and all remote locations.

(1) The procedures for apportioning the cost of Category 3 host/remote outside plant among the operations are set forth in § 67.126.

§ 67.123 Assignment of outside plant to categories.

(a) Outside plant in the following accounts is assigned to categories as provided in this section: Aerial Cable—Account 242.1; Underground Cable—Account 242.2; Buried Cable—Account 242.3; and Submarine Cable—Account 242.4.

(1) *Cable.*

(i) There are two basic methods for assigning the cost of cable to the various categories. Both of them are on the basis of conductor cross section. The methods are as follows:

(A) By section of cable, uniform as to makeup and relative use by categories. From an analysis of cable engineering and assignment records, determine in terms of equivalent gauge the number of pairs in use, or reserved, for each category. The corresponding percentages of use, or reservation, are applied to the cost of the section of cable, *i.e.*, sheath feet times unit cost per foot, to obtain the cost assignable to each category.

(B) By using equivalent pair miles, *i.e.*, pair miles expressed in terms of equivalent gauge. From an analysis of cable engineering and assignment records, determine the equivalent pair miles in use for each category by types of facility, e.g., quadded, paired. The equivalent pair miles are then divided by a cable fill factor to obtain the equivalent pair miles in plant. The total equivalent pair miles in plant assigned to each category is summarized by types of facility, e.g., quadded and paired, and priced at appropriate average unit costs per equivalent pair mile in plant. If desired, this study may be made in terms of circuit miles rather than physical pair miles, with average cost and fill data consistent with the basis of the facilities mileage count.

(ii) In the assignment of the cost of cable under the two basic methods described in § 67.123(a)(1)(i) consideration is given to the following:

(A) The method in paragraph (a)(1)(i)(A) of this section will probably be found more desirable where there is a relatively small amount of cable of variable make-up and use by categories. Conversely, the method in paragraph (a)(1)(i)(B) of this section will probably be more desirable where there is a large amount of cable of variable make-up and use by categories. However, there may be cases where a combination of both methods may be desirable.

(B) It will be desirable in some cases to determine the amount assignable to a particular category by deducting from the total the sum of the amounts assigned to all other categories.

(C) For use in the assignment of poles to categories, the equivalent sheath miles of aerial cable assigned to each category are determined. For convenience, these quantities are determined in connection with the assignment of cable costs.

(D) Where an entire cable is assignable to one category, its cost and quantity are, where practicable, directly assigned.

(iii) For cables especially arranged for high-frequency transmission such as shielded, disc-insulated and coaxial, recognition is given to the additional costs which are charged to the high-frequency complement.

(2) *Cable Loading.*

(i) Methods for assigning the cost of loading coils, cases, etc., to categories are comparable with those used in assigning the associated cable to categories. Loading associated with cable which is directly assigned to a given category is also so assigned. The remaining loading is assigned to categories on either of the following bases:

(A) By an analysis of the use made of the loading facilities where a loading coil case includes coils assignable to more than one category, e.g., in the case of a single gauge uniformly loaded section, the percentages used in the related cable assignment are applicable, or

(B) By pricing out each category by determining the pair feet of loaded pairs assigned to each category and

multiplying by the unit cost per pair foot of loading by type.

(3) *Other Cable Plant.*

(i) In view of the small amounts involved, the cost of all protected terminals and gas pressure contactor terminals in the toll cable subaccounts is assigned to the appropriate Interexchange Outside Plant categories. The cost of all other terminals in the exchange and toll cable subaccounts is assigned to Exchange Outside Plant Category 1.3.

(b) *Aerial Wire—Account 243.* (1) The cost of wire accounted for as exchange is assigned to the appropriate Exchange Outside Plant categories. The cost of wire accounted for as toll, which is used for exchange, is also assigned to the appropriate Exchange Outside Plant categories. The cost of the remaining wire accounted for as toll is assigned to the appropriate Interexchange Outside Plant categories as described in § 67.125. For companies not maintaining exchange and toll subaccounts, it is necessary to review the plant records and identify wire plant by use. The cost of wire used for providing circuits directly assignable to a category is assigned to that category. The cost of wire used for providing circuit facilities jointly used for exchange and interexchange lines is assigned to categories on the basis of the relative number of circuit miles involved.

(c) *Pole Lines—Account 241.* (1) In the assignment of the cost of pole lines, anchors, guys, crossarms, and right-of-way are included with the poles, but antenna supporting structures are treated separately.

(2) *Poles.*

(i) The cost of poles is assigned to categories based on the miles of aerial wire and aerial cable supported by poles. The miles of aerial wire and equivalent sheath miles of aerial cable, as developed in the cable and wire studies, are expressed in terms of equivalent miles of 104 wire. The equivalent miles of 104 wire are summarized separately for each category. The ratio of equivalent 104 wire miles for each category to the total equivalent 104 wire miles in the study area is applied to the total cost of poles to obtain the cost assignable to each category.

(3) *Antenna Supporting Structures.*

(i) The cost of antenna supporting structures included in Pole Lines—Account 241 is assigned to categories on the basis of the assignment of the cost of the antennae supported.

(d) *Underground Conduit—Account 244.* (1) The cost of underground conduit is assigned to categories on the basis of the assignment of the cost of underground cable.

§ 67.124 Exchange outside plant categories and apportionment procedures.

(a) For the apportionment of the cost of exchange outside plant among the operations, further segregations of the cost of plant assigned Category 1 are required. Procedures for the assignment of outside plant costs to subsidiary categories are set forth in § 67.123.

(b) Wideband Subscriber Line Outside Plant—Category 1.1—The cost of outside plant assignable to this category in the study area is determined separately for each wideband subscriber line outside facility and assigned to the appropriate subsidiary category as follows: Category 1.11 Subscriber line outside plant for interstate private line services; Category 1.12 Subscriber line outside plant for intrastate private line services; and Category 1.13 Subscriber line outside plant for wideband message services.

(1) The costs in Categories 1.11 and 1.12 are each assigned directly to the appropriate operation. The cost in Category 1.13 is segregated by type of wideband service and is apportioned between state and interstate operations on the basis of the relative number of minutes of use of each type of wideband service in the study area.

(c) Exchange Trunk Outside Plant (Wideband and Non-Wideband)—Category 1.2—The cost of the exchange outside plant assignable to this category in the study area is separately identified for the following subsidiary categories: Category 1.21 Trunk plant used exclusively for exchange message services; Category 1.22 Trunk plant used exclusively for toll message services (including trunks used exclusively for WATS access) or jointly for exchange and toll message services; Category 1.23 Trunk plant used for TWX access lines; Category 1.24 Trunk plant used exclusively for interstate private line services; and Category 1.25 Trunk plant used exclusively for state private line services.

(1) The costs in Categories 1.21, 1.24, and 1.25 are assigned directly to the appropriate operation. The cost in Category 1.22 is apportioned between state and interstate operations on the basis of the relative number of minutes of use of this plant in the study area. The cost in Category 1.23 for the study area is apportioned between state and interstate operations on the basis of the relative number of TWX minutes of use for the study area.

(d) Subscriber Line Outside Plant Excluding wideband—Category 1.3—The first step in apportioning the cost of the subscriber line outside plant among the operations is the determination of an average cost per working loop. This avarage cost per working loop is determined by dividing the total cost of subscriber line outside plant assigned Category 1.3 in the study area by the sum of the working loops described in the following subcategories: Category 1.31 Subscriber line outside plant used exclusively for state private line services; Category 1.32 Subscriber line outside plant used exclusively for interstate private line service; Category 1.33 Subscriber line outside plant used jointly for exchange service and toll message services, including WATS access lines; and Category 1.34 Subscriber line outside plant used for TWX service. The cost of the subscriber line outside plant assigned Category 1.3 is further assigned to the following subsidiary categories and apportioned in accordance with §§ 67.124(d)(1)–67.124(d)(4).

(1) The cost of subscriber line outside plant assigned Category 1.34 for the study area is determined by multiplying the average cost per loop determined in § 67.124(d) by the number of working subscriber lines used in furnishing TWX service. The amount so assigned is apportioned between state toll and interstate toll on the basis of the relative number of TWX minutes of use for the study area.

(2) The average subscriber line outside plant cost per loop determined in § 67.124(d) is applied to the counts of working loops used in furnishing state and interstate private line local channels (excluding wideband), and the amounts so determined are assigned to categories 1.31 and 1.32 and are assigned directly to the appropriate operations.

(3) The cost of subscriber line outside plant assigned Category 1.33 is determined by subtracting amounts assigned TWX service, and private line service in §§ 67.124(d)(1) and 67.124(d)(2) from the total cost assigned Category 1.3 in the study area.

(4)(i) The cost of subscriber line outside plant in Category 1.33 is apportioned between state and interstate operations until January 1, 1986, by the application, to the cost of such plant, of a subscriber plant factor, which is the sum of the following:

(A) Annual average interstate subscriber line use (SLU), for the calendar year 1981,[3] representing the

[3] In the case of a company that cannot calculate the average interstate subscriber line usage (SLU) ratio for the calendar year 1981, the average interstate SLU for the customarily used 12-month

Continued

interstate use of the subscriber plant as measured by the ratio of interstate holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, multiplied by .85, the nationwide ratio of subscriber plant costs assignable to the exchange operation per minute of exchange use to total subscriber plant cost per total minute of use of subscriber plant plus

(B) Twice the annual average interstate subscriber line use ratio for the study area for the calendar year 1981,[3] multiplied by the annual average composite station rate ratio used for the calendar year 1981 (ratio of the nationwide, industry-wide average interstate initial 3-minute station charge at the study area average interstate length of haul to the nationwide, industry-wide average total toll initial 3-minute station charge at the nationwide average length of haul for all toll traffic for the total telephone industry).

(ii) Effective January 1, 1986, the plant in OSP Category 1.33 shall be apportioned between the state and interstate operations as provided in §§ 67.124(d)(5)–67.124(d)(7).

(5) Effective January 1, 1986, 25 percent of the plant investment in OSP Category 1.33 will be allocated to the interstate operation, except as otherwise provided in §§ 67.124(d)(6) and 67.124(d)(7).

(6) The interstate allocations of OSP Category 1.33 plant investment for the years 1986, 1987 and 1988 will be as follows, subject to the limitation contained in § 67.124(d)(7):

(i) 1986—The § 67.124(d)(4)(i) allocation factor multiplied by .75 plus .0625.

(ii) 1987—The § 67.124(d)(4)(i) allocation factor multiplied by .5 plus .125.

(iii) 1988—The § 67.124(d)(4)(i) allocation factor multiplied by .25 plus .1875.

(7) *Limit on Change in Interstate Allocation.*

(i) No study area's percentage interstate allocation for inside wire, OSP Category 1.33 and COE Category 8.13 plant investment as well as associated maintenance and depreciation shall decrease by a total of more than ten percentage points from one calendar year to the next as a result of the combined operations of § 67.124(d)(5), § 67.124(d)(6) and §§ 67.641(a) through 67.641(c).

[3] study period ending in 1981 may be utilized. In the case of a company for which no such 1981 annual average SLU exists, the annual average interstate SLU for the initial study period will be utilized.

(ii) The determination of whether the decrease in the interstate allocation for a given study area resulting from the operation of § 67.124(d) and §§ 67.641(a) through 67.641(c) exceeds ten percentage points shall be made by calculating a percentage interstate allocation for both of the years involved. This shall be done by dividing the interstate allocation of OSP Category 1.33, COE Category 8.13 and inside wire plus associated expenses for each year as calculated pursuant to § 67124(d)(7)(iv) by the total unseparated investment in OSP Category 1.33, COE Category 8.13 and inside wire plus associated expenses for the corresponding year as calculated pursuant to § 67.124(d)(7)(v).

(iii) If the resulting percentage for the more recent of the two years is more than ten percentage points less than the percentage for the earlier year, the decrease in the interstate allocations shall be reduced pro rata for plant investment, maintenance and depreciation so that the difference between the two percentages does not equal more than ten percentage points.

(iv) Add amounts in paragraph (d)(7)(iv) (A) through (D) of this section.

(A) The net interstate allocation of OSP Category 1.33 plant investment calculated pursuant to § 67.124(d)(5) and § 67.124(d)(6) multiplied by the authorized interstate rate of return.

(B) The net interstate allocation of inside wire associated with OSP Category 1.33 calculated pursuant to § 67.124(d)(5) and § 67.124(d)(6) multiplied by the authorized interstate rate of return.

(C) The interstate allocation of maintenance and depreciation attributable to OSP Category 1.33 and inside wire investment associated with OSP Category 1.33 calculated pursuant to § 67.124(d)(5) and § 67.124(d)(6).

(D) The amount of the additional interstate expense allocation calculated pursuant to §§ 67.641(a) through 67.641(c).

Add the amounts in paragraph (d)(7)(iv) (A) through (C) of this section.

(A) The net unseparated OSP Category 1.33 plant investment multiplied by the authorized interstate rate of return.

(B) The net unseparated inside wire investment associated with OSP Category 1.33 multiplied by the authorized interstate rate of return.

(C) The unseparated maintenance and depreciation attributable to OSP Category 1.33 investment and inside wire investment associated with OSP Category 1.33.

§ 67.125 Interexchange outside plant categories and apportionment procedures.

(a) For the apportionment of the cost of interexchange outside plant among the operations, further segregations of the cost of plant assigned Category 2 are required. Procedures for the assignment of outside plant to subsidiary categories are set forth in § 67.123.

(b) Outside Plant Furnished to Another Company For Interstate Use—Category 2.1—This category comprises that outside plant provided for the use of another company as an integral part of its interexchange circuit plant facilities used wholly for interstate services. This category includes such outside plant facilities as sections of whole cables or complements in a cable (e.g., coaxial complement), loading attached to conductors owned by other companies, and conduit enclosing another company's cable used wholly for interstate services. The total cost of the plant in this category for the study area is determined by an analysis of accounting and engineering records and is assigned directly to the interstate operation.

(c) Outside Plant Facilities Used for Wideband Services—Category 2.2—The cost of outside plant assignable to this category in the study area is determined separately for each wideband interexchange channel facility, excluding wideband channel facilities included in Category 2.1, and is assigned to the appropriate subsidiary category as follows: Category 2.21 Interexchange plant for interstate private line services; Category 2.22 Interexchange plant for intrastate private line services; and Category 2.23 Interexchange plant for message services.

(1) The costs in Categories 2.21 and 2.22 are each assigned directly to the appropriate operation. The cost in Category 2.23 is segregated by type of wideband service and is apportioned between state and interstate operations on the basis of the relative number of message-minute-miles of use of the plant assigned each wideband service in the study area.

(d) All Other Interexchange Outside Plant—Category 2.3—This category includes the cost of all interexchange outside plant not assigned to Categories 2.1 and 2.2. The cost of outside plant used for the following classes of circuits is included in this category: interstate message circuits, i.e., message circuits carrying only interstate message traffic; state message circuits, i.e., message circuits carrying only state message traffic; jointly used message circuits, i.e., message switching plan circuits other

than those listed above; circuits used exclusively for TWX service; circuits used for interstate private line services; and circuits used for state private line services.

(1) An average interexchange outside plant cost per equivalent interexchange telephone circuit mile for all circuits in Category 2.3 is determined and applied to the equivalent interexchange telephone circuit mileage counts of each of the classes of circuits.

(2) The cost of interstate message circuits and interstate private line circuits is assigned directly to the interstate operation.

(3) The cost of state message circuits and state private line circuits is assigned directly to the state operation.

(4) The cost of jointly used message circuits is apportioned between state and interstate operations on the basis of the relative number of study area conversation-minute-miles applicable to such facilities.

(5) The cost of TWX circuits, developed as set forth in §§ 67.125(d) and 67.125(d)(1) is apportioned between state and interstate operations as follows:

(i) The cost associated with the TWX intertoll circuits which, by use, are directly assignable to a given operation is assigned directly to the appropriate operation.

(ii) The cost associated with the TWX intertoll circuits used jointly for state and interstate operations is apportioned between the operations on the basis of the relative number of study area TWX connection-minute-miles applicable to such facilities.

(iii) The cost associated with the interexchange portion of TWX remote access lines is apportioned between state and interstate operations on the basis of the relative number of study area TWX connection-minute-miles applicable to those facilities.

§ 67.126 Host/remote message outside plant category and apportionment procedures.

(a) Host/Remote Message Outside Plant—Category 3—The cost of host/remote outside plant used for message circuits, i.e., circuits carrying only message traffic, is included in this category.

(1) The cost of host/remote message outside plant for the study area is apportioned on the basis of the relative number of study area minutes-of-use miles applicable to such facilities.

Central Office Equipment

§ 67.131 General.

(a) Central office equipment is carried in Account 221.

(b) Records are usually maintained of the cost of central office equipment at each location separately by subaccounts. However, each subaccount frequently includes equipment having more than one use. Also, equipment in one subaccount frequently is associated closely with equipment in the same building in another subaccount. Therefore, the separation procedures for central office equipment have been designed to deal with categories of plant rather than with equipment in a subaccount.

(c) In the separation of the cost of central office equipment among the operations, the first step is the assignment of the equipment in each central office to categories. The basic method of making this assignment is the identification of the equipment assignable to each category, and the determination of the cost of the identified equipment by an analysis of accounting, engineering and other records.

(1) The cost of common equipment not assigned to a specific category, e.g., common power equipment, including emergency power equipment, aisle lighting and framework, including distributing frames, is distributed among the categories in proportion to the cost of equipment (excluding power equipment not dependent upon common power equipment) directly assigned to categories.

(i) The cost of power equipment used by one category is assigned directly to that category, e.g., 130 volt power supply provided for circuit equipment. The cost of emergency power equipment protecting only power equipment used by one category is also assigned directly to that category.

(ii) Where appropriate, a weighting factor is applied to the cost of circuit equipment in distributing the power plant costs not directly assigned, in order to reflect the generally greater power use per dollar of cost of this equipment.

(d) The second step is the apportionment of the cost of the equipment in each category among the operations through the application of appropriate use factors or by direct assignment.

§ 67.132 Categories and apportionment procedures.

(a) The following categories of central office equipment and apportionment procedures therefore are set forth in §§ 67.133–67.140:

(1) Manual Telephone Switching Equipment—Category 1.

(2) Dial Tandem Switching Equipment—Category 2.

(3) Intertoll Dial Switching Equipment—Category 3.

(4) Automatic Message Recording Equipment—Category 4.

(5) Other Toll Dial Switching Equipment—Category 5.

(6) Local Dial Switching Equipment—Category 6.

(7) Special Services Switching Equipment—Category 7.

(8) Circuit Equipment—Category 8.

§ 67.133 Manual telephone switching equipment—category 1.

(a) Manual telephone switching equipment includes all types of manual telephone switchboards except dial tandem switchboards and those used solely for recording of calling telephone numbers in connection with customer dialed charge traffic. It includes all face equipment, terminating relay circuits of trunk and toll line circuits, cord circuits, cable turning sections, subscriber line equipment, associated toll connecting trunk equipment, number checking facilities, ticket distributing systems, calculagraphs, chief operator and other desks, operator chairs, and other such equipment.

(1) Manual telephone switching equipment is generally classified according to operating arrangements of which the following are typical:

(i) Separate toll boards.

(ii) Separate local manual boards.

(iii) Combined local manual and toll boards.

(iv) Combined toll and DSA boards.

(v) Separate DSA and DSB boards.

(vi) Service observing boards.

(vii) Auxiliary service boards.

(viii) Traffic service positions.

(2) If switchboards as set forth in § 67.133(a) are of the key pulsing type, the cost of the key pulsing senders, link and trunk finder equipment is included with the switchboards.

(3) DSB boards include the associated DSB dial equipment, such as link and sender equipment.

(4) Traffic service position systems include the common control and trunk equipment in addition to the associated groups of positions wherever located.

(b) The cost of the following telephone switchboards is apportioned among the operations on the basis of the relative number of weighted standard work seconds handled at the switchboards under consideration.

(1) The following types of switchboards at toll centers are generally apportioned individually:

(i) Separate toll boards. These usually include outward, through and inward positions in separate lines and associated inward toll switchboard

positions in line with local manual positions.

(ii) Switchboards handling both local and toll, either combined or having segregated local and toll positions in the same line.

(iii) Switchboards handling both toll and DSA, either combined or having segregated toll and DSA positions in the same line.

(iv) Traffic service positions, including separately located groups of these positions when associated with a common basic control unit.

(2) The following types of switchboards at toll centers are apportioned individually, or by groups of comparable types of boards for each exchange:

(i) Separate local manual boards. This includes the local positions of manual boards where inward toll positions are in the same line.

(ii) Separate DSA boards.

(iii) Separate DSB boards.

(3) Tributary boards may be treated individually if warranted or they may be treated on a group basis.

(c) Auxiliary service boards generally handle rate and route, information, and intercept service at individual or joint positions. The cost of these boards is apportioned as follows:

(1) The cost of separate directory assistance boards is apportioned among the operations on the basis of the relative number of weighted standard work seconds handled at the boards under consideration. Directory assistance weighted standard work seconds are apportioned among the operations on the basis of the classification of these weighted standard work seconds as follows:

(i) Directory assistance weighted standard work seconds first are classified between calls received over toll directory assistance trunks from operators or customers and all other directory assistance calls.

(ii) The directory assistance weighted standard work seconds of each type further are classified separately among the operations on the basis of an analysis of a representative sample of directory assistance calls of each type with reference to the locations of the calling and called stations for each call.

(2) The cost of separate intercept boards and automated intercept systems in the study area is apportioned among the operations on the basis of the relative number of subscriber line minutes of use.

(3) The cost of separate rate and route boards is generally included with the cost of the toll boards served and is apportioned with those boards.

(4) Where more than one auxiliary service is handled at an auxiliary board, the cost of the board is apportioned among the auxiliary services on the basis of the relative number of weighted standard work seconds for each service. The cost of that part of the board allocated to each auxiliary service is apportioned among the operations in the same manner as for a separate auxiliary board.

(d) The cost of joint exchange and toll service observing boards is first apportioned between exchange and toll use on the basis of the relative number of exchange and toll service observing units at these boards. The cost of separate toll service observing boards and the toll portion of joint service observing boards is apportioned between state and interstate operations on the basis of the relative number of toll minutes of use associated with the toll messages originating in the offices observed.

(e) Traffic Service Position System investments are apportioned as follows:

(1) Operator position investments are apportioned on the basis of the relative weighted standard work seconds for the entire TSPS complex.

(2) Remote trunk arrangement (RTA) investments are apportioned on the basis of the relative processor real time (*i.e.*, actual seconds) required to process TSPS traffic originating from the end offices served by each RTA.

(3) The remaining investment at the central control location, such as the stored program control and memory, is apportioned on the basis of the relative processor real time (*i.e.*, actual seconds) for the entire TSPS complex.

§ 67.134 Dial tandem switching equipment—category 2.

(a) Dial tandem switching equipment includes all dial switching equipment in a tandem central office, including any associated dial tandem switchboard positions. Equipment, including switchboards, used for recording of calling telephone numbers and other billing information in connection with customer dialed charge traffic is included with Automatic Message Recording Equipment—Category 4.

(1) The cost of dial tandem switching equipment which primarily handles exchange or short-haul toll traffic or both is apportioned among the operations on the basis of the relative number of connections at the tandem office.

(2) The cost of dial tandem switching equipment which handles significant amounts of long-haul toll traffic incoming to or outgoing from a tandem area is apportioned among the operations on the basis of the relative number of minutes of use at each location.

§ 67.135 Intertoll dial switching equipment—category 3.

(a) Intertoll dial switching equipment includes dial switching equipment (e.g., No. 4 type toll crossbar switching equipment, intertoll dial selector equipment, intertoll trunk equipment in No. 5 type crossbar and electronic offices) used for the interconnection of message toll telephone circuits with each other or with local or tandem central office trunks or, used to furnish through switching of special services.

(1) At toll center toll offices, intertoll dial switching equipment comprises equipment in the toll office used in the interconnection of: toll center to toll center circuits; toll center to tributary circuits; tributary to tributary circuits; toll center to tandem circuits; or in the interconnection of the aforementioned types of circuits with trunks to local offices in the toll center city, i.e., interconnection with toll switching trunks, operator trunks, information trunks, testing trunks, etc. Equipment associated with the local office end of such trunks is included with local dial switching equipment or switchboard categories as appropriate.

(2) At tributary offices, this category includes intertoll dial switching equipment similar to that at toll center toll offices if it is used in the interconnection of: tributary to tributary circuits; tributary to subtributary circuits; subtributary to subtributary circuits; toll center to subtributary circuits; or if it is used jointly in the interconnection of any of the aforementioned types of circuits and in the interconnection of such toll circuits with trunk circuits for the handling of traffic terminating in the tributary office. Where comparable equipment has no joint use but is used only for the handling of traffic terminating in the tributary office, it is included in the local dial switching equipment category.

(3) At all switching entities, this category includes intertoll dial switching equipment similar to that at toll center toll offices if it is used in the interconnection of switched private line trunks or TWX switching plan trunks when these functions are in addition to the message telephone switching function. Switching entities wholly dedicated to switching of special services are assigned to Category 7.

(b) The cost of central office equipment items assigned this category are apportioned among the operations on the basis of the relative number of

minutes of use of the intertoll dial switching equipment, or by direct assignment. Generally, the equipment at each location is apportioned separately; however, for offices having the same type of equipment, e.g., intertoll dial selector equipment, apportionment may be by groups of offices provided the amounts involved are small and the unit cost of the selector equipment in each office of a group is comparable.

§ 67.136 Automatic message recording equipment—category 4.

(a) Automatic message recording equipment comprises the central office equipment used for the identification, recording and timing of customer dialed charge traffic, or switched private line traffic (e.g., transverters, recorders, call identity indexers, perforators, ticketers, detectors, master timers) switchboards used solely for recording of calling telephone numbers in connection with customer dialed charge traffic, or switched private line traffic (or both).

(b) The cost of this equipment at each location is first segregated between equipment used for the entire duration of a call, e.g., ticketers, and equipment used only momentarily, e.g., perforators, switchboards.

(1) The cost of equipment used for the entire duration of a call is apportioned among the operations on the basis of the relative number of minutes of use incurred on customer dialed charge traffic or switched private line traffic (or both) automatically recorded at each location.

(2) The cost of equipment used only momentarily is apportioned among the operations on the basis of the relative number of automatically ticketed messages involving customer dialed charge traffic or switched private line traffic (or both) automatically recorded at each location.

§ 67.137 Other toll dial switching equipment—category 5.

(a) Other toll dial switching equipment comprises all that dial central office switching equipment provided and used primarily for operator dialed toll or customer dialed charge traffic except such equipment included in Dial Tandem Switching Equipment—Category 2, Intertoll Dial Switching Equipment—Category 3, Automatic Message Recording Equipment—Category 4, or toll connecting trunk and completing equipment in Local Dial Switching Equipment—Category 6.

(1) Other toll dial switching equipment includes such items as directors, translators, sender registers, out trunk selectors and facilities for toll intercepting and digit absorption.

(b) The cost of this equipment is apportioned among the operations on the basis of the relative minutes of use of the equipment in each location.

§ 67.138 Local dial switching equipment—category 6.

(a) Local dial switching equipment comprises all dial central office switching equipment not assigned other categories. Examples of local dial switching equipment are basic switching train, toll connecting trunk equipment, interlocal trunks, tandem trunks, terminating senders used for toll completion, toll completing train, call reverting equipment, weather and time of day service equipment, concentration equipment, and switching equipment at electronic analog or digital remote line locations.

(1) Local dial office, as used in § 67.138, comprises one or more local dial switching entities of the same equipment type (e.g., step-by-step, No. 5 Crossbar) in an individual location. A local dial switching entity comprises that local dial central office equipment of the same type which has a common intermediate distributing frame, marker group or other separately identifiable switching unit serving one or more prefixes (NNX codes).

(2) A host/remote local dial switching complex is composed of an electronic analog or digital host office and all of its remote locations. A host/remote local dial switching complex is treated as one local dial office. The current jurisdictional definition of an exchange will apply.

(b) The cost of this equipment in each local dial office is first segregated between non-traffic sensitive equipment and traffic sensitive equipment. The cost of non-traffic sensitive equipment comprises the cost of those items of equipment used jointly for both exchange and toll services, the quantities of which are determined as a function of the number of subscriber lines terminated and which in no way are a function of the busy hour or total volumes of attempts, calls, or messages offered to or switched by the office, together with a share of the cost of common equipment items, such as aisle lighting, ladders and ladder racks and framing, test equipment, power plants, etc., determined in the manner described in § 67.131(c)(1). The cost of traffic sensitive equipment comprises the cost of all other local dial switching equipment, including its share of the cost of common equipment items.

(1) The segregation of the cost of local dial switching equipment is accomplished in each local dial office by the application of a non-traffic sensitive equipment factor appropriate for the particular type of equipment (step-by-step, panel, crossbar, electronic-analog or digital, etc.) installed in the office and for the size of the office. The non-traffic sensitive factors are developed by means of analyses of the cost of local dial switching equipment in selected local dial offices which are representative of the several types and size ranges and which are chosen for study by sampling methods which represent the population.

(c) The cost of non-traffic sensitive equipment in each office in a study area is apportioned between state and interstate operations by the application of a subscriber plant factor for the study area developed as described in § 67.124(d)(4)(i). The cost of traffic sensitive plant in each office is apportioned among the operations on the basis of relative dial equipment minutes of use, i.e., the minutes of holding time of the originating and terminating local dial switching equipment, as holding time is defined in the Glossary. The toll dial equipment minutes of use applicable to each office are weighted to reflect the difference in average cost per toll minute of use as compared to the average cost per exchange minute of use.

(1) The weighted toll dial equipment minutes of use applicable to each office are developed by application of aweighting factor appropriate for the particular type of equipment (step-by-step, panel, crossbar, electronic-analog or digital, etc.) installed in the office, the size of the office, and whether or not a majority of the traffic originated in the office also terminates in the office.The weighting factors for application to the toll minutes of use are developed by means of analyses of the traffic sensitive local dial switching equipment in local dial offices selected for study by sampling methods which represent the population. The analyses of the traffic sensitive items of equipment are made in sufficient detail to reflect the use of each item of equipment for exchange and for toll services.

(2) Dial equipment minutes of use attributable to the origination or termination of interstate message services other than MTS and WATS that use local dial switching facilities shall be counted as interstate minutes of use, but shall not be deemed to be toll dial equipment minutes of use for purposes of the weighting factor described in § 67.138(c)(1).

§ 67.139 Special services switching equipment—category 7.

(a) Special services switching equipment includes those switching systems (e.g., dial switching equipment, TWX concentrators and switchboards) which primarily perform the switching function for special services.

(b) The cost of special services dial switching systems is apportioned among the operations on the basis of the relative number of minutes-of-use at each location, or by direct assignment.

(c) The cost of TWX switchboards is apportioned among the operations on the basis of relative number of TWX traffic units or weighted standard work seconds handled at each location.

(d) The cost of TWX concentrators associated with TWX remote access lines is apportioned on the basis of the relative number of study area TWX minutes-of-use applicable to this equipment.

(e) The cost of switchboards used exclusively for private line services is apportioned on the basis of the relative number of state and interstate private lines served.

§ 67.140 Circuit equipment—category 8.

(a) Circuit equipment includes central office equipment, other than switching equipment and automatic message recording equipment, which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing or control of signals transmitted over communications transmission channels. Examples of circuit equipment in general use include:

(1) Carrier telephone and telegraph system terminals.

(2) Telephone and telegraph repeaters, termination sets, impedance compensators, pulse link repeaters, echo suppressors and other intermediate transmission amplification and balancing equipment except that included in switchboards.

(3) Radio transmitters, receivers, repeaters and other radio central office equipment except message switching equipment associated with radio systems.

(4) Composite ringers, line signaling and switching pad circuits.

(5) Composite sets and repeating coils.

(6) Program transmission amplifiers, monitoring devices and volume indicators.

(7) Testboards, test desks, repair desks and patch bays, including those provided for test and control, and for telegraph and transmission testing.

(b) For apportionment among the operations, the cost of circuit equipment is assigned to the following subsidiary categories which are consistent with those established for outside plant:

(1) Exchange Circuit Equipment—Category 8.1:

(i) Wideband Exchange Loop Circuit Equipment—Category 8.11

(ii) Exchange Trunk Circuit Equipment (Wideband and Non-Wideband)—Category 8.12

(iii) Subscriber Line Circuit Equipment Excluding Wideband—Category 8.13

(2) Interexchange Circuit Equipment—Category 8.2:

(i) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use—Category 8.21

(ii) Interexchange Circuit Equipment Used For Wideband Services—Category 8.22

(iii) All Other Interexchange Circuit Equipment—Category 8.23

(3) Host/Remote Message Circuit Equipment—Category 8.3.

In addition, for the purpose of identifying and separating property associated with special services, circuit equipment included in Categories 8.12 other than wideband equipment, 8.13 and 8.23 is identified as being: (i) Basic circuit equipment, i.e., that which performs functions necessary to provide and operate channels suitable for voice transmission (telephone grade channels), or (ii) special circuit equipment, i.e., that which is peculiar to special service circuits. Carrier telephone terminals and carrier telephone repeaters are examples of basic circuit equipment in general use, while audio program transmission amplifiers, bridges, monitoring devices and volume indicators, telegraph carrier terminals and telegraph repeaters are examples of special circuit equipment in general use.

(4) Costs of exchange circuit equipment included in Categories 8.12 and 8.13 are segregated between: (i) Basic circuit equipment and (ii) special circuit equipment only at those locations where amounts of exchange special circuit equipment are significant. Where such segregation is not made, the total costs in these categories are classified as exchange basic circuit equipment.

(c) *Apportionment of Exchange Circuit Equipment Among the Operations.* (1) Wideband Exchange Loop Circuit Equipment—Category 8.11—The cost of exchange circuit equipment in this category is determined separately for each wideband facility. The respective costs are allocated to the appropriate operation in the same manner as the related exchange loop outside plant as described in §§ 67.124(b) and 67.124(b)(1).

(2) Exchange Trunk Circuit Equipment (Wideband and Non-wideband)—Category 8.12—The cost of exchange circuit equipment associated with this category for the study area is assigned to subcategories and is allocated to the appropriate operation in the same manner as the related exchange trunk outside plant as described in §§ 67.124(c) and 67.124(c)(1).

(3) Subscriber Line Circuit Equipment Excluding Wideband—Category 8.13—The cost of Circuit Equipment associated with exchange subscriber line plant excluding wideband for the study area is assigned to subcategories and is allocated to the appropriate operation in the same manner as the related Subscriber Line Outside Plant for non-wideband service as described in §§ 67.124(d) and 67.124(d)(1) through 67.124(d)(7).

(d) *Apportionment of Interexchange Circuit Equipment Among the Operations.* (1) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use—Category 8.21—This category comprises that circuit equipment provided for the use of another company as an integral part of its interexchange circuit facilities used wholly for interstate services. This category includes such circuit equipment as telephone carrier terminals, telegraph carrier terminals, and microwave systems used wholly for interstate services. The total cost of the circuit equipment in this category for the study area is assigned to the interstate operation.

(2) Interexchange Circuit Equipment Used for Wideband Service—Category 8.22—This category includes the circuit equipment portion of interexchange channels used for wideband services. The cost of interexchange circuit equipment in this category is determined separately for each wideband channel and is segregated between message and private line services on the basis of the use of the channels provided. The respective costs are allocated to the appropriate operation in the same manner as the related interexchange outside plant as described in §§ 67.125(c) and 67.125(c)(1).

(3) All Other Interexchange Circuit Equipment—Category 8.23—This category includes the cost of all interexchange circuit equipment not assigned to Categories 8.21 and 8.22.

(i) The cost of interexchange basic circuit equipment used for the following classes of circuits is included in this Category: interstate message circuits, i.e., message circuits carrying only interstate message traffic; state message circuits, i.e., message circuits carrying only state message traffic; jointly used message circuits, i.e., message switching

plan circuits other than those listed above; circuits used exclusively for TWX service; circuits used for interstate private line services; and circuits used for state private line services.

(A) An average interexchange circuit equipment cost per equivalent interexchange telephone circuit mile for all circuits in Category 8.23 is determined and applied to the equivalent interexchange telephone circuit mileage counts of each of the classes of circuits.

(B) The cost of interstate message circuits and interstate private line circuits is assigned directly to the interstate operation.

(C) The cost of state message circuits and state private line circuits is assigned directly to the state operation.

(D) The cost of jointly used message circuits is apportioned between state operations and interstate operations on the basis of the relative number of study area conversation-minute-miles applicable to such facilities.

(E) The cost of interexchange circuit equipment assigned TWX circuits, developed as set forth in §§ 67.140(d)(3)(i) and 67.140(d)(3)(i)(A) is apportioned between state and interstate toll operations as follows:

(*1*) The cost of circuit equipment associated with the TWX intertoll circuits which by use are directly assignable to a given operation is assigned directly to the appropriate operation.

(*2*) The cost of circuit equipment associated with the TWX intertoll circuits used jointly for state and interstate operations is apportioned between the operations on the basis of the relative number of study area TWX connection-minute-miles applicable to such facilities.

(*3*) The cost of circuit equipment associated with the interexchange portion of the TWX remote access lines is apportioned between state and interstate operations on the basis of the relative number of study area TWX connection-minute-miles applicable to those facilities.

(ii) The cost of special circuit equipment is segregated among TWX service, telegraph grade private line services and other private line services based on an analysis of the use of the equipment. The cost of TWX special circuit equipment is apportioned between state and interstate operations on the same basis as that used for intertoll TWX circuits. The special circuit equipment cost assigned to telegraph grade and other private line services is directly assigned to the appropriate operation.

(e) *Apportionment of Host/Remote Message Circuit Equipment Among the Operations.* (1) Host/Remote Message Circuit Equipment—Category 8.3. This category includes message host/remote location circuit equipment for which a message circuit switching function is performed at the host central office associated with outside plant Category 3 as defined in § 67.122(c).

(i) The category 8.3 cost of host/remote circuit equipment assigned to message services for the study area is apportioned among the exchange, intrastate toll, and interstate toll operations on the basis of the relative number of study area minutes-of-use-miles applicable to such facilities.

Station Equipment

§ 67.151 General.

(a) Station equipment is included in the following accounts:

Station Apparatus	Account 231
Station Connections	Account 232
Large Private Branch Exchanges	Account 234
Public Telephone Equipment	Account 235

(1) The investments in Accounts 231 and 234 shall be segregated between customer premises equipment and other station equipment. Customer premises equipment shall be apportioned among the operations as set forth in §§ 67.153(a) and 67.153(b). (Other station equipment shall be apportioned in accordance with § 67.152).

(2) The first step in the separation of station equipment is the segregation of station connections in Accounts 232 and 234 other than inside wiring provided for private line services from all other investment. This plant is apportioned between the state and interstate operations on the same basis as OSP Category 1.33 described in §§ 67.124(d)(4) through 67.124(d)(7).

(b) The next step is the assignment of the remaining plant to the five categories listed below and the determination of the cost of the plant so assigned. The basic procedures followed in making the assignments and cost determinations are: the identification of the units of station equipment installed on customers' premises assignable to Categories 1, 2, 3 and 4; determination of the related costs in these categories by the application of an appropriate average unit cost to the units so identified; and the assignment of the remaining station equipment cost to Category 5.

(1) Identification of the units of station equipment installed on customers' premises is accomplished by the use of plant, accounting and engineering records supplemented by field inventories, where necessary. Where the numbers of units to be identified are large, sampling methods may be emloyed. Under such circumstances, however, the costs of telephone and miscellaneous telephone station apparatus in Account 231 and telephone and miscellaneous telephone station connections in Account 232 are assigned to Category 2 by applying to these costs in the study area the ratio of: (i) The number of exchange loops used for telephone private line services to (ii) the number of message telephone subscriber lines and exchange loops used for telephone private line services, combined.

(2) Each average unit cost of station apparatus used in the cost determinations includes the cost of station apparatus not installed on customers' premises. To include appropriate proportions of the cost of station apparatus not installed on customers' premises, a separate factor ordinarily is determined for each of: (i) Teletypewriter, (ii) telephone and miscellaneous and (iii) radio apparatus and is applied to the corresponding unit costs of station apparatus installed on customers' premises.

(3) Only that station equipment provided under special service tariffs (e.g., special terminating equipment, trunk circuit equipment, idle circuit terminations, signaling equipment, telephone sets, keys, key sets and turrets which are used for the termination of special service circuits) is assigned to the special service categories. Correspondingly, station equipment used jointly for both special services and message telephone services (e.g., telephone keys, key sets, order turrets, private branch exchange switchboards which are used for the termination of both private lines and exchange lines) and provided under other than special service tariffs is assigned to Category 5.

(c) The second step in the separtion of station equipment among the operations is the apportionment of the cost of plant in each category through the application of appropriate use factors or by direct assignment.

§ 67.152 Station equipment categories and apportionment procedures.

(a) Teletypewriter Exchange Service—Category 1—This category includes all station equipment provided for teletypewriter exchange service. The cost of the equipment in this category is apportioned between state and interstate on the basis of the relative number of TWX minutes-of-use for the study area.

(b) Private Line Services—Category 2—This category includes station equipment provided for private line services. The cost of equipment in this category is allocated among the operations by direct assignment. Consistent with the principle expressed in § 67.151(b)(3), the direct assignment among the operations is consistent with the related tariffs.

(c) Station Identification Equipment—Category 3—This category includes the cost of station identification equipment, e.g., spotter cams, transistor units, in Station Apparatus—Account 231, and Large Private Branch Exchanges—Account 234. This equipment is used for the purpose of identifying the calling station for automatic message recording purposes. The cost of the equipment in this category is apportioned among the operations on the basis of the relative number of messages automatically recorded by the associated central office equipment.

(d) Wideband Message Service—Category 4—This category includes the cost of station equipment provided for wideband message services. The cost of the equipment for each service in this category is apportioned to the operations on the basis of the relative minutes-of-use of this plant used for each service in the study area.

(e) Other Station Equipment—Category 5—This category includes all station equipment not assigned to other categories. The cost of station equipment assigned to this category in the study area is apportioned between state and interstate operations by the application of a subscriber plant factor developed as described in §§ 67.124(d)(4)–67.124(d)(7).

§ 67.153 Phase out and termination of interstate apportionment of customer premises equipment in accounts 231 and 234.

(a) New Customer Premises Equipment—No portion of any investment in customer premises equipment in Accounts 231 and 234 which may be entered on the books of the compnay after December 31, 1982 shall be apportioned to interstate operations.

(b) Phase Out of Customer Premises Equipment Recorded as of December 31, 1982—The recorded investments of customer premises equipment in Accounts 231 and 234 which are on the books as of December 31, 1982 shall be assigned to the five categories set forth under § 67.152. Equipment assigned to category 2 shall be apportioned as provided in § 67.152(b). The amount of plant investment so determined in all other categories, reduced by one-sixtieth, shall be apportioned between state and interstate operations in accordance with the procedures prescribed for each category under § 67.152 for the month of January, 1983. Each month thereafter, the base December 31, 1982 amount shall be reduced by one-sixtieth of the base amount in each category, and the apportionment between state and interstate operations shall be made in a similar manner. After 60 months the amounts in each category will be reduced to zero, and no apportionment of any such customer premises equipment to interstate operations shall thereafter be made. Companies that have a separations study period different than monthly may establish equal periods for reducing the base amounts consistent with such study periods to write off the base amount in 5 years.

Furniture and Office Equipment, Vehicles and Other Work Equipment

§ 67.161 Furniture and office equipment—account 261.

(a) The cost of furniture and office equipment is first segregated between: (1) Data processing equipment used primarily for one function, and (2) other.

(b) The cost of the data processing equipment used primarily for one function is apportioned among the operations on a basis appropriate for the separation of the work functions performed.

(c) The cost of the other furniture and office equipment in this account is apportioned among the operations on the basis of the separation of the wage portion of maintenance, traffic, commercial and revenue accounting expenses excluding the wage portion of maintenance expense related to general office space.

§ 67.162 Vehicles and other work equipment—account 264.

(a) The cost of vehicles and other work equipment is apportioned among the operations on the basis of the separation of the cost of outside plant, station equipment and material and supplies, combined.

Organization, Franchises, Patent Rights, Telephone Plant Acquired and Telephone Plant Sold

§ 67.171 Organization—account 201, franchises—account 202, and patent rights—account 203.

(a) The amount included in these accounts is apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1, excluding Accounts 201, 202, 203, 276 and 277.

§ 67.172 Telephone plant acquired—account 276, and telephone plant sold—account 277.

(a) The amount included in these accounts is apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1, excluding Accounts 201, 202, 203, 276 and 277.

(1) If the amount involved is of sufficient magnitude to affect the separation results materially, a more detailed study is made.

Telephone Plant Under Construction, Property Held for Future Telephone Use and Telephone Plant Acquisition Adjustment

§ 67.181 Telephone plant under construction—account 100.2.

(a) The amount carried in Account 100.2 for each primary plant account is apportioned among the operations on the basis of the apportionment of the cost in the same primary plant in service account. Significant amounts in Account 100.2 for a building or building addition, or major portion thereof, together with associated land, being constructed at the specific request of another company for interstate services are assigned directly to the interstate operation.

§ 67.182 Property held for future telephone use—account 100.3.

(a) The cost of large items, e.g., land and buildings, carried in Account 100.3 is apportioned among the operations on bases consistent with the nature of the case. The remainder of the cost carried in Account 100.3 for each primary plant account is apportioned among the operations on the basis of the apportionment of the cost in the same primary plant in service account.

§ 67.183 Telephone plant acquisition adjustment—account 100.4.

(a) The amount carried in Account 100.4 which is associated with specific primary plant accounts is apportioned among the operations on the basis of the apportionment of the cost in the corresponding primary plant in service accounts.

(b) The remainder of this account, which is not classified by primary plant accounts, is apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1.

Material and Supplies and Cash Working Capital

§ 67.191 Material and supplies—account 122.

(a) The amount included in Account 122 is apportioned among the operations

on the basis of the apportionment of the cost of outside plant in service. Starting with January 1, 1983 any amounts included in Account 122 associated with customer premises equipment shall be excluded from the amounts which are allocated to the interstate operation.

§ 67.192 Cash working capital.

(a) The amount for cash working capital, if not determined directly for a particular operation, is apportioned among the operations on an appropriate basis.

Subpart C—Operating Revenues and Certain Income and Retained Earnings Accounts

General

§ 67.201 Section arrangement.

(a) This subpart is arranged in sections, as follows:

	Sections
General	67.201–67.202
Operating Revenues—Accounts 500 to 530, inclusive	67.211–67.215
Certain Income Accounts—Accounts 316, 323, 360, 365, 370, 375 and Interest Charged to Construction Included in Account 313	67.221–67.226
Certain Retained Earnings Accounts—Accounts 402 and 413	67.231

§ 67.202 General.

(a) This section sets forth procedures for the apportionment among the operations of operating revenues and certain income and retained earning accounts.

Operating Revenues

§ 67.211 General.

(a) Operating revenues are included in the following accounts:

(1) Subscribers Station Revenues... Account 500
(2) Public Telephone Revenues.... Account 501
(3) Service Stations..... Account 503
(4) Local Private Line Services..... Account 504
(5) Other Local Service Revenues... Account 506
(6) Message Tolls..... Account 510
(7) Wide Area Toll Services..... Account 511
(8) Toll Private Line Services..... Account 512
(9) Other Toll Service Revenues... Account 516
(10) Telegraph Commissions..... Account 521
(11) Directory Advertising and Sales... Account 523
(12) Rent Revenues..... Account 524
(13) Revenues from General Services and Licenses..... Account 525
(14) Other Operating Revenues... Account 526
(15) Uncollectible Operating Revenues—Dr..... Account 530

§ 67.212 Local service revenues.

(a) *Subscribers' Station Revenues—Account 500.* (1) subscribers' station revenues, (other than those associated with wideband message services) comprising monthly and miscellaneous charges, message charges, service connections, and moves and changes, are assigned to the exchange operation.

(2) Subscribers' station revenues associated with wideband message services are treated as follows:

(i) Local message revenues are assigned to the exchange operation.

(ii) Other wideband message service revenues included in this account are apportioned between state and interstate operations on the basis of the relative number of minutes of use for such services in the study area.

(b) *Public Telephone Revenues—Account 501 and Service Stations—Account 503.* (1) Revenues included in these accounts are assigned to the exchange operation.

(c) *Local Private Line Services—Account 504.* (1) Local private line service revenues from broadcast program transmission audio services and broadcast program transmission video services are assigned to the interstate operation.

(2) Revenues in this account from all other local private line services are assigned to the exchange operation.

(d) *Other Local Service Revenues—Account 506.* (1) Revenues included in this account are assigned to the exchange operation.

(2) Revenues that are attributable to the origination or termination of interstate FX or CCSA like services shall be assigned to the interstate jurisdiction.

§ 67.213 Toll service revenues.

(a) *Message Tolls—Account 510.* (1) *Telephone and Miscellaneous Services.*

(i) In the separation of message toll revenues from telephone and miscellaneous services, the first step is to apportion between state toll and interstate toll operations, the gross charges for: (A) Messages that are sent paid and received collect at the company's telephones in the study area, and (B) joint messages that are sent paid and received collect at connecting company telephones. This is done by direct assignment on the basis of analyses and studies. The second step is to add or deduct, as appropriate, toll settlements with other companies. The separation between state toll and interstate toll operations of such settlements with other companies is based upon data made available in connection with studies underlying those settlements.

(2) *TWX Services.*

(i) In the separation of message toll revenues from TWX services, the first step is to apportion between state toll and interstate toll operations, the gross charges for: (A) Connections that are handled on a sent paid and received collect basis at company stations within the study area, and (B) joint connections that are handled on a sent paid and received collect basis at stations of connecting companies. This is done by direct assignment on the basis of analyses and studies. The second step is to add or deduct, as appropriate, toll settlements with other companies. The separation between state toll and interstate toll operations of such settlements with other companies is based upon data made available in connection with studies underlying those settlements.

(ii) TWX revenues from monthly and micellaneous charges, service connections, move and change charges, are apportioned between state and interstate operations on the basis of the relative number of TWX minutes-of-use in the study area.

(3) *Wideband Message Services.*

(i) In the separation of wideband message service revenues from messages between points in different local service areas, the first step is to apportion between state toll and interstate toll operations, the gross charges for: (A) Messages that are sent paid and received collect at the company's station terminals in the study area; and (B) joint messages that are sent paid and received collect at connecting company station terminals. This is done by direct assignment on the basis of analyses and studies. The second step is to add or deduct, as appropriate, toll settlements with other companies. The separation between state toll and interstate toll operations of such settlements with other companies is based upon data made available in connection with studies underlying those settlements.

(ii) Wideband message service revenues from station terminal monthly charges, service connection charges and move charges are apportioned between state and interstate operations on the basis of the relative number of minutes-of-use for such services in the study area.

(b) *Wide Area Toll Services—Account 511.* (1) In the separation of revenues from wide area toll services, the first step is to apportion between state toll and interstate toll operations the gross charges for wide area toll services billed in the study area. This is done by direct assignment on the basis of analyses and studies. The second step is to add or deduct, as appropriate, settlements with other companies. The

separation between state and interstate operations of such settlements with other companies is based upon data made available in connection with studies underlying those settlements.

(c) *Toll Private Line Services—Account 512.* (1) Toll private line service revenues from broadcast program transmission audio services and broadcast program transmission video services are assigned to the interstate operation.

(2) In the separation of revenues from all other toll private line services, the first step is to apportion between state toll and interstate toll operations, the gross charges for: (A) The toll private line services furnished exclusively by the company in the study area, and (B) services furnished jointly with other companies. This is done by direct assignment on the basis of analyses and studies. The second step is to add or deduct, as appropriate, settlements with other companies. The separation between state toll and interstate toll operations of such settlements with other companies is based upon data made available in connection with studies underlying those settlements.

(d) *Other Toll Service Revenues—Account 516.* (1) Revenues in this account are apportioned between state toll and interstate toll operations on the basis of an analysis of the services furnished.

§ 67.214 Miscellaneous revenues.

(a) *Telegraph Commissions—Account 521 and Directory Advertising and Sales—Account 523.* (1) Revenues in these accounts are assigned to the exchange operation.

(b) *Rent Revenues—Account 524.* (1) As covered in §§ 67.2(c) and 67.2(d) the treatment of revenues in this account is consistent with the treatment of plant furnished under rental agreements in the separation of telephone property.

(c) *Revenues from General Services and Licenses—Account 525.* (1) Revenues in this account are apportioned among the operations on a basis consistent with the method employed in determining the amounts of such revenues.

(d) *Other Operating Revenues—Account 526.* (1) Revenues in this account are apportioned among the operations on the basis of an analysis of the services furnished.

§ 67.215 Uncollectible revenues.

(a) *Uncollectible Operating Revenues—Dr.—Account 530.* (1) The amounts in this account are apportioned among the operations on the basis of an analysis, during a representative period, of certain amounts charged to the subaccount of Due from Customers and Agents—Account 118, entitled Reserve for Uncollectible Accounts—Cr. The amounts analyzed are those applicable to revenue accounts 500, 503, 504, 510, 511, 512 and 523.

Certain Income Accounts

§ 67.221 Investment credits—net—account 304.

(a) Amounts in this account are apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1.

§ 67.222 Interest charged to construction included in interest income—account 313.

(a) Interest charged to construction is apportioned among the operations on the basis of the apportionment of the cost of the portion of Telephone Plant Under Construction, Account 100.2, on which the interest charged to construction was accrued.

§ 67.223 Miscellaneous income—account 316.

(a) Amounts of an operating nature included in this account are apportioned among the operations on bases consistent with the nature of the items.

§ 67.224 Miscellaneous income changes—account 323.

(a) Amounts of contributions for charitable, social or community welfare purposes, employee activites, membership dues and fees in service clubs, community welfare associations and similar organizations are apportioned among the operations on the basis of the apportionment of general expenses.

(b) Other amounts of an operating nature included in this account are apportioned among the operations on bases consistent with the nature of the items.

§ 67.225 Extraordingary income credits—account 360 and extraordinary income charges—account 370.

(a) Amounts of an operating nature included in these accounts are apportioned among the operations on bases consistent with the nature of the items.

§ 67.226 Delayed income credits—account 365 and delayed income charges—account 375.

(a) Amounts of an operating nature included in these accounts are apportioned among the operations on bases consistent with the nature of the items.

Certain Retained Earnings Accounts

§ 67.231 Miscellaneous credits to retained earnings—account 402 and miscellaneous debits to retained earnings—account 413.

(a) Amounts of an operating nature included in these accounts are apportioned among the operations on bases consistent with the nature of the items.

Subpart D—Operating Expenses And Taxes

General

§ 67.301 Section arrangement.

(a) This subpart is arranged in sections as follows:

	Sections
General	67.301–67.302
Maintenance Expenses—Accounts 602.1 to 602.8, inclusive, 603, 604, 605, 606, 610, 611 and 612	67.311–67.320
Depreciation and Amortization Expenses—Accounts 608, 609, 613 and 614	67.331–67.334
Traffic Expenses—Accounts 621, 622, 624, 626, 627 629, 630, 631, 632, 633, 634 and 635	67.341–67.350
Commercial Expenses—Accounts 640, 642, 643, 644, 645, 648, 649 and 650	67.361–67.368
Revenue Accounting Expenses Included in Account 662	67.381–67.386
General Expenses—Accounts 661, 662, 663, 664, 665, 668, 669, 675 and 677, excluding Revenue Accounting Expenses included in Account 662	67.391–67.392
Other Operating Expenses—Account 671, 672, 673, 674 and 676	67.401–67.406
Taxes—Accounts 305, 307, 308, 309, 326, 327 and 380	67.411–67.415

§ 67.302 General.

(a) This section sets forth procedures for the apportionment among the operations of operating expenses and operating taxes.

(b) As covered in §§ 67.2(c) and 67.2(d), the treatment of expenses relating to plant furnished to and obtained from others under rental arrangements is consistent with the treatment of such plant.

Maintenance Expenses

§ 67.311 General.

(a) Maintenance expenses are included in the following accounts:

(1) Repairs of Pole Lines.....Account 602.1
(2) Repairs of Aerial Cable.....Account 602.2
(3) Repairs of Underground Cable.....Account 602.3
(4) Repairs of Buried Cable.....Account 602.4
(5) Repairs of Submarine Cable.....Account 602.5
(6) Repairs of Aerial Wire.....Account 602.6
(7) Repairs of Underground Conduit.....Account 602.7
(8) Shop Repairs and Salvage Adjustments.....Account 602.8
(9) Test Desk Work.....Account 603

(10) Repairs of Central Office Equipment..... Account 604
(11) Repairs of Station Equipment..... Account 605
(12) Repairs of Buildings and Grounds..... Account 606
(13) Repairs of Public Telephone Equipment..... Account 607
(14) Maintaining Transmission Power..... Account 610
(15) Employment Stabilization...Account 611
(16) Other Maintenance Expenses.....Account 612

(b) The general method of separating maintenance expenses among the operations is to relate various kinds of maintenance expenses to the cost of the corresponding classes, subclasses or categories of plant, after which the separation is made in proportion to the separation of the cost of those classes, subclasses, or categories of plant.

§ 67.312 Repairs of outside plant—accounts 602.1 to 602.8 inclusive.

(a) Outside plant maintenance expenses, excluding those in Account 602.8, are apportioned among the operations by applying to the cost of the outside plant in each of the various primary plant accounts assigned to each operation, the ratio of the maintenance expenses associated with each primary plant account to the costs in that plant account.

(b) Shop Repairs and Salvage Adjustments—Account 602.8 is apportioned among the operations on the basis of the separation of the cost of Aerial Cable—Account 242.1.

§ 67.313 Test desk work—account 603.

(a) Test desk work includes the following: Subscribers Line and Service Order Testing and Trunk Testing. For some companies, these classifications are available from accounting records; otherwise, they are obtained by means of analyses of plant, accounting or other records for a representative period.

(b) *Testing of Subscriber Lines and Service Order Testing.* (1) This classification consists of the expense of subscriber line and service order testing ordinarily performed at local test desks or cabinets, at repair service desks, at cable fault locating desks, at local radiotelephone control terminals, base station transmitters, base station receivers and monitors, and at microwave transmitters and receivers used for local video services. It includes the expense of testing in connection with inside moves, service regrades and other rearrangements of station equipment covered by service orders. It also includes the associated clerical work and the receiving and recording of reports of exchange plant troubles.

(2) Expense in this classification is segregated among: (i) Message services (including WATS access), (ii) private line, (iii) TWX, and (iv) wideband services, on the basis of the relative number of working subscriber loops provided for each of these services. In cases where substantial numbers of private line, TWX or wideband service loops are provided, and where either the analyses in § 67.313(a) or analyses of trouble reports on private line, TWX and wideband services indicate that the exchange circuit plant testing expense per loop associated with any of such services is significantly different from the corresponding expense per loop associated with message services (including WATS access), appropriate weighting factors are applied to the counts of loops used for private line, TWX and wideband services. These weighting factors are based on periodic analyses of accounting or other records for a representative period.

(3) Subscriber line and service order testing expense assigned message telephone (including WATS access) is apportioned between state and interstate operations on the same basis as that used for the apportionment of the cost of OSP Category 1.33.

(4) Exchange circuit plant testing expense assigned TWX is apportioned between state and interestate operations on the basis of the relative number of TWX minutes-of-use.

(5) Exchange circuit plant testing expense assigned private line services is apportioned among the operations on the basis of the relative number of working loops (weighted if appropriate) used in furnishing exchange, state toll, interstate toll and private line local channels.

(6) Exchange circuit plant testing expense assigned wideband services is apportioned among the operations on the basis of the relative number of working loops (weighted if appropriate) used in furnishing exchange, state toll and interstate toll wideband loops.

(c) *Trunk Testing.* (1) The expense in this classification consists of test desk work performed in central offices and repeater stations in connection with interoffice trunks and other interoffice circuits and channels and with exchange loops and stations of private line circuits when such work is performed at positions where the interoffice portions of these circuits are tested. It includes the expense of: (i) Receiving and recording reports of circuit trouble, (ii) arranging for clearance of trouble, (iii) trouble testing, fault location and all other tests of interoffice outside plant in connection with maintenance, except in cases where outside plant conductors assigned to interoffice circuits cannot be readily identified in exchange test centers, and (iv) routine tests of complete interoffice circuits or portions of interoffice circuits, including transmission and other adjustments required for proper operation, but excluding tests of central office equipment and any related adjustments. It also includes associated clerical expense and the expense of handling circuit orders, private line service orders and traffic control orders.

(2) Expense in this classification is segregated between that associated with testing of: (i) Wideband channel circuit facilities and (ii) all other, on the basis of an analysis of accounting or other records for a representative period.

(3) The expense of testing wideband channels which is performed at video test centers is assigned to video. This expense is apportioned between state and interstate operations on the basis of the relative number of video channel miles assigned each of these operations in the study area. Expense of testing wideband channels at other than video test centers is apportioned between state and interstate operations on the basis of the relative number of wideband channel miles (including video) assigned each of these operations in the study area. Where analyses of the testing expense for wideband channels indicates significant differences in the expense per wideband channel mile for channels of different bandwidths or for different types of services, the channel miles are weighted to reflect such differences. The weighting factors are based on periodic analyses of accounting or other records for a representative period.

(4) The expense of testing all other inter-office circuit plant is further segregated among exchange trunk plant, interexchange circuit plant, and host/remote message circuit plant on the basis of the relative number of circuit miles provided for each of these classifications in the study area. In cases where substantial numbers of circuit miles are provided for TWX service, or private line services (other than wideband special services) or exchange trunks, and where analyses of trouble reports or other records indicate that the testing expense associated with any of these classifications is significantly different from the

corresponding expense per circuit mile associated with message interexchange service (including WATS access) circuit miles, appropriate weighting factors are applied to the counts of circuit miles for individual classifications to recognize this difference in testing expense. These weighting factors are based on periodic studies of charges to Account 603 for interoffice circuit plant testing during a representative period.

(i) Where circuit miles of exchange trunks are not available or the data to develop appropriate weighting factors are not available, the testing expense for exchange trunks is developed from a special analysis of plant and accounting records.

(ii) Testing expense allocated to exchange trunk plant is further segregated among the classes of exchange trunk plant described in § 67.124(c) on the basis of the relative number of circuit miles or by the analysis described in § 67.313(c)(4)(i). These expenses are then assigned to the state or interstate operation on the basis of the separation of the associated exchange trunk plant costs.

(5) The interexchange circuit trunk testing expense is further segregated among message telephone, TWX, and private line services on the basis of the relative number of interexchange circuit miles (weighted, if appropriate) provided for each of these services in the study area.

(i) Interexchange circuit plant testing expense assigned message telephone is apportioned between state and interstate operations on the basis of the relative number of interexchange message telephone circuit miles in the study area assigned each operation. Jointly used circuit miles are apportioned between state and interstate operations on the basis of conversation-minute-miles.

(ii) Interexchange circuit plant testing expense assigned TWX is apportioned between state toll and interstate toll operations on the basis of the relative number of interexchange TWX circuit miles in the study area assigned each operation. Jointly used TWX circuit miles are apportioned between state and interstate operations on the basis of TWX connection-minute-miles determined separately for intertoll circuits and remote access lines.

(iii) Interexchange circuit plant testing expense assigned private line services is apportioned between state and interstate operations on the basis of the relative number of interexchange private line circuit miles (weighted, if appropriate) in the study area assigned each operation.

(6) Host/Remote message circuit plant testing expense is apportioned among the exchange, intrastate toll, and interstate toll operations on the basis of study area minutes-of-use-miles.

§ 67.314 Repairs of central office equipment—account 604.

(a) The expense in this account is apportioned among the operations on the basis of the separation of the cost of Central Office Equipment—Account 221.

§ 67.315 Repairs of station equipment—account 605.

(a) The expense in this account is classified as follows: Ordinary Repairs; Rearrangements and Changes; Shop Repairs and Salvage Adjustments; and Inside Wiring Installation Expense. For some companies, this classification is available from accounting records; otherwise, it is obtained by means of analyses of plant, accounting or other records for a representative period.

(b) *Ordinary Repairs.* (1) This classification includes the expense of: routine inspection, testing and repairs of station equipment; repairs and testing of station equipment in the course of clearing trouble; replacing defective or deteriorated minor items of station apparatus or large private branch exchanges (excluding the cost of material other than repair parts); replacing dry-cell batteries; and producing power at private branch exchanges, excluding any testing which is included in Account 603.

(2) Expense in this classification is segregated into amounts associated with large private branch exchanges; radiotelephone station equipment; TWX station equipment; private line teletypewriter station equipment; and telephone and miscellaneous station equipment, on the basis of an analysis of accounting or other records for a representative period.

(3) Ordinary repairs expense assigned large private branch exchanges is further segregated between repairs of those large private branch exchanges which are used exclusively for private line services, and all other. This segregation is made on the basis of an analysis of records underlying the accounts for a representative period.

(i) Ordinary repairs expense assigned large private branch exchanges used exclusively for private line services is apportioned among the operations on the basis of the separation of the cost of the large private branch exchanges with which this expense is associated.

(ii) All other ordinary repairs expense assigned large private branch exchanges is apportioned among the operations on the basis of the separation of the cost of large private branch exchanges, excluding the cost of those described in § 67.315(b)(3)(i).

(4) Ordinary repairs expense assigned radiotelephone station equipment is apportioned among the operations on the basis of the apportionment of the cost of radiotelephone station equipment included in Accounts 231 and 232.

(5) Ordinary repairs expense assigned TWX station equipment is apportioned between state and interstate operations on the basis of the relative number of TWX minutes-of-use for the study area.

(6) Ordinary repairs expense assigned private line teletypewriter station equipment is apportioned among the operations on the basis of the apportionment of the cost of private line teletypewriter station equipment included in Accounts 231 and 232.

(7) Ordinary repairs expense assigned telephone and miscellaneous station equipment is apportioned among the operations on the basis of the apportionment of the cost of telephone and miscellaneous station equipment included in Accounts 231 and 232.

(c) *Rearrangements and Changes.* (1) This classification includes the expense of: rearrangements and changes in location of station equipment on the same premises (inside moves); changes in type of station apparatus items in good condition, except for the cost of material other than repair parts; the work done at customers' premises incident to service regrades, including temporary suspensions of service where billing continues, but at a reduced rate; and replacing minor items of large private branch exchanges which are in good condition, excluding the cost of replacing retirement units.

(2) Expense in this classification is segregated into amounts associated with: large private branch exchanges; radiotelephone station equipment; TWX station equipment; private line teletypewriter station equipment; and telephone and miscellaneous station equipment, on the basis of an analysis of records for a representative period.

(3) Each expense segregation set forth in § 67.315(c)(2) is apportioned among the operations on the same basis as the apportionment of the corresponding segregation of ordinary repairs expense as set forth in §§ 67.315(b)(3)–67.315(b)(7).

(d) *Shop Repairs and Salvage Adjustments.* (1) This classification includes the expense of: shop repairs and conversions of station equipment for reuse; salvage adjustments or credits related to station equipment material, the salvage value of which is creditable

to this account and which cannot practicably be allocated to other classifications of expense in this account; supply expense cleared on the basis of station apparatus being reused; and transporting station equipment material to and from repair shops.

(2) Expense in this classification is apportioned among the operations on the basis of the apportionment of station equipment ordinary repairs expense, excluding ordinary repairs of large private branch exchanges.

(e) *Phase Out and Termination Provision.* (1) No portion of any maintenance expense in Account 605 associated with new customer premises equipment in Accounts 231 and 234 except Category 2 equipment which may be entered on the books of the company after December 31, 1982 shall be apportioned to interstate operations.

(2) The average monthly recorded maintenance expense in Account 605 associated with Ordinary Repairs plus Shop Repairs and Salvage Adjustments of customer premises equipment in Accounts 231 and 234 (excluding amounts for rearrangements and changes, installations, disconnections and removals) for the 12 months preceding the cut-off date shall be used as a base in connection with the phase out of interstate allocation of customer premises equipment. For the month of January, 1983 such base amount shall be reduced by one-sixtieth and apportioned among the operations in accordance with the procedures set forth above in §§ 67.315(b)(1)–67.315(d)(2), as applicable.

(3) Each month thereafter, the base amount shall be reduced by one-sixtieth of the original base amount, and the apportionment of such reduced amount among the operations shall be made in a similar manner. After 60 months the base amount will be reduced to zero, and no apportionment of customer premises equipment maintenance expense to interstate operations shall thereafter be made.

(f) Inside Wiring Installation Expense—Expenses associated with the installation of inside wiring shall be apportioned between state and interstate operations in accordance with the applicable factor for the apportionment of investment in such wiring.

§ 67.316 Repairs of buildings and grounds—account 606.

(a) The expense in this account is apportioned among the operations on the basis of the separation of the cost of buildings.

§ 67.317 Repairs of public telephone equipment—account 607.

(a) The amount in this account is allocated in the same manner as Public Telephone Equipment.

§ 67.318 Maintaining transmission power—account 610.

(a) The expense in this account is apportioned among the operations on the basis of the separation of the cost of Central Office Equipment—Account 221.

§ 67.319 Employment stabilization—account 611.

(a) The expense in this account is apportioned among the operations on the basis of the separation of maintenance expenses in Accounts 602.1 through 610, inclusive.

§ 67.320 Other maintenance expenses—account 612.

(a) If the amount in this account is substantial, the expenses are analyzed to determine the nature of the charges and apportioned among the operations as required, using appropriate methods. If the amount in this account is small, it is apportioned on the basis of maintenance expenses in Accounts 602.1 through 610, inclusive.

Depreciation and Amortization Expenses

§ 67.331 Depreciation—account 608.

(a) Depreciation expenses as accrued by plant accounts or subaccounts (except depreciation on Pole Lines—Account 241 and Underground Conduit—Account 244) are expressed as ratios of depreciation expense to the cost included in the corresponding plant account or subaccount.

(1) Depreciation expenses accrued for Pole Lines—Account 241 and Underground Conduit—Account 244 are expressed as ratios of depreciation expense to the total costs of Pole Lines—Account 241, and Underground Conduit—Account 244, respectively.

(2) Depreciation expense associated with customer premises equipment in Accounts 231 and 234 except Category 2 equipment for the month of December, 1982 shall be expressed as a ratio to the plant in these accounts as recorded for December 31, 1982, and such ratio shall be applied to the phase out of plant in these accounts as described in § 67.153(b) in accordance with the procedure in § 67.331(b).

(b) Depreciation expense is then apportioned among the operations by the application of the depreciation expense ratios so derived to the cost of the plant in each account or subaccount apportioned to each operation.

§ 67.332 Extraordinary retirements—account 609.

(a) Charges to this account are analyzed and apportioned among the operations by appropriate methods.

§ 67.333 Amortization of intangible property—account 613.

(a) Charges to this account for amortization of leaseholds are apportioned among the operations on the basis of the separation of the cost of Land—Account 211.

(b) Charges to this account for other than amortization of leaseholds are apportioned among the operations on the basis of the separation of amounts included in Organization—Account 201, Franchises—Account 202, and Patent Rights—Account 203, combined.

§ 67.334 Amortization of telephone plant acquisition adjustment—account 614.

(a) Amounts in this account are apportioned among the operations on the basis of the separation of amounts included in Telephone Plant Acquisition Adjustment—Account 100.4.

Traffic Expenses

§ 67.341 General.

(a) Traffic expenses are included in the following accounts:

(1) General Traffic Supervision.... Account 621
(2) Service Inspection and Customer Instruction..... Account 622
(3) Operators' Wages..... Account 624
(4) Rest and Lunch Rooms..... Account 626
(5) Operators' Employment and Training..... Account 627
(6) Central Office Stationary and Printing..... Account 629
(7) Central Office House Service..... Account 630
(8) Miscellaneous Central Office Expenses..... Account 631
(9) Public Telephone Expenses..... Account 632
(10) Other Traffic Expenses..... Account 633
(11) Joint Traffic Expenses—Dr.... Account 634
(12) Joint Traffic Expenses—Cr..... Account 635

(b) In General, traffic expenses are apportioned among the operations on the basis of the relative number of weighted standard work seconds. For this purpose, certain groups of weighted standard work seconds are apportioned among the operations as follows:

(1) Directory assistance weighted standard work seconds at separate auxiliary service boards are apportioned among the operations on the basis of the classification of these weighted standard work seconds as follows:

(i) Directory assistance weighted standard work seconds first are classified between calls received over toll directory assistance trunks from

operators or customers and all other directory assistance calls.

(ii) The directory assistance weighted standard work seconds of each type further are classified separately among the operations on the basis of an analysis of a representative sample of directory assistance calls of each type with reference to the locations of the calling and called stations for each call.

(2) Intercept weighted standard work seconds in the study area are apportioned among the operations on the basis of the relative number of subscriber line minutes-of-use applicable to each operation in the study area.

(c) For some traffic expense accounts one set of factors is used to apportion the entire expense in the account among the operations. For other accounts the expense is segregated into two or more classifications and is apportioned separately for each classification. Some companies maintain subaccounts consistent with the specific classifications.

(d) Traffic expense in each account or classification is apportioned among the operations separately for each exchange except where:

(1) It is difficult to determine the expense for individual exchanges,

(2) Some exchanges have relatively small amounts of expense, or

(3) Some exchanges have comparable cost levels or comparable proportions of the operations.

Where any of the above conditions apply, the expense may be apportioned among the operations for groups of exchanges. A group of exchanges may include all exchanges in the study area.

(e) For the purpose of this section "total weighted standard work seconds" includes an allowance for TWX when allocation to TWX is necessary.

§ 67.342 General traffic supervision—account 621.

(a) Engineering—The expense of employees engaged in traffic engineering is apportioned among the operations on the basis of the apportionment of the combined cost of Central Office Equipment—Account 221 and Interexchange Outside Plant in Accounts 241 through 244.

(b) Network Administration—The expense of employees engaged in traffic administration of dial switching equipment operations is apportioned among the operations on the basis of the apportionment of the cost of Central Office Equipment in Categories 1 through 7.

(c) All Other—All other expense included in this account is apportioned among the operation on the basis of the relative number of total weighted standard work seconds.

§ 67.343 Service inspection and customer instruction—account 622.

(a) The expense in this account is ordinarily segregated into four classifications or subaccounts: (1) Service evaluation, (2) private branch exchange, (3) TWX, and (4) customer instruction and miscellaneous.

(b) *Service Evaluation.* (1) This classification includes the expense of traffic service evaluation forces engaged in evaluating the handling of message telephone traffic, in summarizing service evaluation data, and in directly supervising such work.

(2) The expense is apportioned between exchange and toll for a study area on the basis of the relative number of exchange and toll service weighted evaluation seconds.

(3) The toll expense is then apportioned on a study area basis between state and interstate operations on the basis of the relative number of toll minutes of use for each operation.

(c) *Private Branch Exchange.* (1) This classification includes the expense of employees engaged in inspecting private branch exchange service and directly supervising such work. This includes the taking of observations of private branch exchange service, other than service observations by the regular service observing forces, and the expense of employment and instruction of private branch exchange operators when performed by the private branch exchange service organization.

(2) The expense in this classification for the study area is apportioned among the operations on the basis of relative amounts of current billing excluding billing to non-affiliated telegraph companies and other telephone companies as determined by an analysis for a representative period.

(d) *Teletypewriter Exchange Service.* (1) This classification includes the expense of employees engaged in inspecting or observing the handling of teletyewriter exchange service. It also includes the expense of training customers' personnel for such service.

(2) The expense in this classification for the study area is apportioned between state toll and interstate toll operations on the basis of the relative number of state and interstate TWX traffic units or weighted standard work seconds.

(e) *Customer Instruction and Miscellaneous.* (1) This classification includes the expense of employees engaged in instructing customers in methods of placing calls, in taking special observations in connections with the handling of individual service criticisms, and in similar activities.

(2) Expense in this classification for the study area is apportioned among the operations on the basis of the relative amounts of current billing excluding billing to other telephone companies as determined by an analysis for a representative period.

§ 67.344 Operators' wages—account 624.

(a) For apportionment purposes, the following classifications of expense included in this account are considered: (1) Private branch exchange, (2) teletypewriter exchange, (3) network administration, (4) number services record work, and (5) all other.

(b) *Private Branch Exchange.* (1) This classification includes the expense of private branch exchange operating and clerical employees.

(2) Expense in this classification is first divided between that incurred in connection with the operation of private line service switchboards and all other.

(i) Expense incurred in connection with the operation of private line service switchboards is apportioned among the operations, by locations, on the same basis as that used for the apportionment of the cost of the private line service switchboards operated (See § 67.139(e)).

(ii) All other expense in this classification for the study area is apportioned among the operations on the basis of the relative number of subscriber line minutes-of-use in the study area.

(c) *Teletypewriter Exchange.* (1) This classification includes the expense of teletypewriter exchange operating and clerical employees.

(2) Expense in this classification is apportioned between state toll and interstate toll operations, by locations, on the basis of the relative number of state and interstate TWX traffic units or weighted standard work seconds.

(d) *Network Administration.* (1) This classification includes the expense of switching administration, data administration, transmission administration, line and number administration, trunk administration and general administration and training for all of these functions.

(2) Expense in this classification for the study area is apportioned among the operations on the basis of the apportionment of Central Office Equipment in Categories 1 through 7.

(e) *Number Services Record Work.* (1) This classification includes the expense of updating and maintaining records for directory assistance, intercept, and calling card service functions.

(2) Expense in this classification is first divided between directory assistance, intercept, and calling card service for the study area.

(3) The expense incurred for the directory assistance function is apportioned among the operations for a study area on the basis of the weighted standard work seconds generated by the directory assistance offices in the study area.

(4) The expense incurred for the intercept function is apportioned among the operations for a study area on the basis of the weighted standard work seconds generated by the the intercept offices in the study area.

(5) The expense incurred for the calling card service function is apportioned among the operations for a study area on the basis of the credit card messages for the study area.

(f) *All other.* (1) The expense in this classification is apportioned among the operations by exchanges or groups of exchanges on the basis of the relative number of weighted standard work seconds at each exchange or group of exchanges.

(i) Where an exchange has a separate toll payroll, or payrolls, the weighted standard work seconds consistent with the payroll, or payrolls, for each toll office are used to apportion the total expense for that office. The total weighted standard work seconds for all other offices may be used to apportion the totals of the separate payrolls for these other offices.

§ 67.345 Rest and lunch rooms—account 626.

(a) Dining Service—This classification includes the expense of operating lunch rooms for traffic department central office employees. Included are salaries of employees engaged in the operation of lunch rooms, associated house service expense, expenditures for food supplies, and other miscellaneous related expense, less lunch room receipts. This expense is apportioned among the operations separately for each exchange or for groups of exchanges on the basis of the relative number of total weighted standard work seconds in the exchange or group of exchanges.

(b) All Other—The remaining expense in this account for the study area is apportioned among the operations on the basis of the relative number of telephone weighted standard work seconds plus TWX weighted standard work seconds or traffic units.

§ 67.346 Operators' employment and training—account 627.

(a) Teletypewriter Exchange Training—The expense of traffic employees, both instructors and trainees, incurred while attending a training course in TWX operating and clerical work is apportioned between state and interstate operations on the basis of the relative number of TWX weighted standard work seconds or traffic units for the study area.

(b) All other—The remaining expense in this account is apportioned among the operations separately for each switchboard, exchange or group of exchanges on the basis of the relative number of the telephone weighted standard work seconds applicable to each operation at the switchboard, exchange or group of exchanges. However, where significant proportions of both exchange traffic and outward toll traffic are handled at the same switchboard or group of switchboards, the weighted standard work seconds used for their apportionment must be additionally weighted. The weighting factors applied to the weighted standard work seconds for this purpose are derived by assigning a weight of one to all local operator weighted standard work seconds and an appropriate relative weight to all toll operator weighted standard work seconds. This toll weighing factor is based on periodic studies of the relative training requirements.

§ 67.347 Central office stationery and printing—account 629; central office house service—account 630; and miscellaneous central office expenses—account 631.

(a) The expense in Accounts 629 and 630 for the study area is apportioned among the operations on the basis of the relative number of total weighted standard work seconds.

(b) The expense in Account 631 is apportioned among the operations separately for each exchange or group of exchanges on the basis of the relative number of total weighted standard work seconds in the exchange or group of exchanges.

§ 67.348 Public telephone expenses—account 632.

(a) The expense incurred at attended pay stations handling toll to completion is assigned to toll, and is apportioned between state and interstate operations on the basis of the relative number of state toll and interstate toll weighted standard work seconds at each location.

(b) The remaining expense in this account for the study area is apportioned among the operations on the basis of the relative number of study area subscriber line minutes-of-use.

§ 67.349 Other traffic expenses—account 633.

(a) Settlement Amounts—Amounts of settlements for traffic operating services performed by other companies are apportioned among the operations on bases consistent with the nature of the operating services.

(b) All Other—All other expense in this account for the study area is apportioned among the operations on the basis of the relative number of total weighted standard work seconds for the study area.

§ 67.350 Joint traffic expenses—Dr.—account 634 and joint traffic expenses—Cr.—account 635.

(a) Amounts in these accounts are apportioned among the operations on bases consistent with the nature of the traffic operating services received or provided.

Commercial Expenses

§ 67.361 General.

(a) Commercial expenses are included in the following accounts:

(1) General Commercial Administration	Account 640
(2) Advertising	Account 642
(3) Sales Expense	Account 643
(4) Connecting Company Relations	Account 644
(5) Local Commercial Operations	Account 645
(6) Public Telephone Commission	Account 648
(7) Directory Expenses	Account 649
(8) Other Commercial Expenses	Account 650

§ 67.362 General commercial administration—account 640.

(a) General commercial administration expense is apportioned among the operations on the basis of the apportionment of Sales Expense—Account 643, Connecting Company Relations—Account 644, and Local Commercial Operations—Account 645, combined.

§ 67.363 Advertising—account 642 and sales expenses—account 643.

(a) The expenses in these accounts are apportioned among the operations on the basis of an analysis of current billing for local and toll services during a representative period. This analysis excludes current billing for non-affiliated telegraph companies and billing in connection with intercompany settlements.

§ 67.364 Connecting company relations—account 644.

(a) The expense in this account is first assigned to: message toll telephone

service including WATS access; TWX service; private line services; and extended area services (EAS) on the basis of an analysis during a representative period of the net settlement amounts associated with each of these services. This analysis excludes settlements with affiliated telephone companies and with non-affiliated telegraph companies.

(1) Message toll telephone service expense is apportioned between state toll and interstate toll operations on the basis of analysis of current billing for state and interstate joint toll messages, respectively, sent paid and received collect, underlying the related intercompany settlements.

(2) TWX service expense is apportioned between state and interstate operations on the basis of an analysis of the current billing for state and interstate TWX connections, respectively, handled on a sent paid and received collect basis, underlying the related intercompany settlements.

(3) Private line services expenses are apportioned among the operations on the basis of the net settlement amounts for the private line services involved.

(4) Extended area service (EAS) expense is directly assigned to the exchange operation.

§ 67.365 Local commercial operations—account 645.

(a) The expense in this account for the area under study is first segregated on the basis of the relative number of users of the following services: message toll and telegram; exchange, including semi-public; directory advertising; TWX and private line services, as determined by an analysis for a representative period. An individual subscriber may be classed as more than one user, this being determined by the number of services used.

(1) Message toll and telegram expense is further segregated between message toll and telegram on the basis of the relative number of sent paid and received collect messages billed company customers in the area under study, excluding messages at coin and company attended telephones, as determined by an analysis for a representative period.

(i) Message toll expense is apportioned between state toll and interstate toll operations on the basis of the relative number of business office contacts relating to state toll and interstate toll messages.

(ii) Telegram expense is assigned to the exchange operation.

(2) Exchange, including semi-public, and directory advertising expenses are assigned to the exchange operation.

(3) TWX expense is apportioned between state toll and interstate toll operations on the basis of the relative number of sent paid and received collect TWX connections billed by the company in the study area.

(4) Private line services expenses are apportioned among the operations on the basis of the relative number of private line service accounts, as determined by an analysis for a representative period.

§ 67.366 Public telephone commissions—account 648.

(a) The expense in this account, including commissions paid hotels, is apportioned among the operations on the basis of a special study of commissions paid during a representative period.

§ 67.367 Directory expenses—account 649.

(a) The expense in this account is apportioned among the operations on the basis of analyses of Prepaid Directory Expenses—Account 132 for representative periods. In making these analyses, the expenses are assigned as follows:

(1) Classified directory expense and all expense of soliciting advertising is assigned to the exchange operation.

(2) TWX directory expense is assigned to state toll and interstate toll operations, respectively, on the basis of the relative number of TWX minutes-of-use.

(3) The expense of alphabetical and street address directories and traffic information records is apportioned among the operations on the basis of the relative number of study area subscriber line minutes-of-use applicable to each operation.

(4) The expense associated with directories and traffic information records prepared for one locality and used in another locality is known as "foreign directories expense." Such expense is assigned to the appropriate operation on the basis of the location of the point where used with respect to the locality for which the directories and records were prepared.

(b) The amounts of Prepaid Directory Expenses apportioned to each of the operations as set forth in § 67.367(a) are summarized and expressed as percentages of the total.

(c) The percentages developed as set forth in § 67.367(b) are applied to Directory Expenses—Account 649 for the separation period under study to apportion the expense in this account among the operations.

§ 67.368 Other commercial expenses—account 650.

(a) The expense in this account is apportioned among the operations on the basis of the apportionment of all other commercial expenses combined.

Revenue Accounting Expenses

§ 67.381 General.

(a) Revenue accounting expenses comprise the salaries and other expenses in Account 662 directly assignable or allocable to the billing of customers and the accounting for revenues, including the supervision of such work.

(1) The expenses for those general accounting administrative employees engaged in administrative, developmental methods, and personnel work which can not be directly assigned to the revenue accounting function or to other accounting functions are apportioned to revenue accounting on the basis of an analysis of the employee hours for the revenue accounting function and for all other accounting department functions.

(b) Revenue accounting expenses for the study area are segregated into five main classifications as follows: toll ticket processing expense; local message processing expense; other billing and collecting processing expense, including postage expense associated with customer bills; end user common line access charge billing expense; and other access charge billing expense.

(1) Total revenue accounting expense, including the general accounting administrative expense associated with the revenue accounting function, less the expense of postage associated with customer bills, is allocated among the five main classifications on the basis of an analysis of the hours of productive work in each classification for a representative period. The postage expense associated with customer bills is then included with the expense allocated to the other billing and collecting processing classification.

(c) As used in this Section, the term "ticket" denotes either a ticket prepared manually by an operator or the mechanized equivalent of such a ticket processed by the revenue accounting office.

§ 67.382 Toll ticket processing expense.

(a) This classification includes the salary expense and the machine expense of data processing equipment, including supervision, general accounting administrative, and miscellaneous expense, associated with the processing of individual toll tickets. It includes work such as that associated

with the receiving and rating of message toll telephone tickets, the preparation of toll service statements, and with the processing of intercompany message toll telephone and telegram settlements.

(b) The expenses assigned to this classification are apportioned among the operations on the basis of the relative number of state message toll telephone messages and TWX connections, weighted interstate message toll telephone message and TWX connections, and nonaffiliated company telegram messages. Interstate toll tickets are weighted, if appropriate, to reflect the generally greater amounts of work involved in processing such tickets. In this apportionment, telegram messages are treated as exchange.

§ 67.383 Local message processing expense.

(a) This classification includes the salary expense and the machine expense of data processing equipment, including supervision, general accounting administrative, and miscellaneous expense, associated with the processing of local message tickets and local unit register readings. The expense in this classification is assigned to the exchange operation.

§ 67.384 Other billing and collecting processing expense.

(a) This classification includes the salary expense and the machine expense of data processing equipment, including supervision, general accounting administrative, and miscellaneous expense, associated with the preparation of customer bills other than access charge bills and with other revenue accounting functions not covered in § 67.382 and § 67.383. Included in this classification are the expenses incurred in the preparation of monthly bills, initial and final bills, the application of service orders to billing records, (establishing, changing, or discontinuing customers' accounts) station statistical work, controlling record work and the preparation of revenue reports.

(b) The expenses assigned this classification are segregated on the basis of the relative number of users of the following services: message toll telephone and telegram (excluding semi-public where tolls are not itemized on the bill); TWX; exchange including semi-public; directory advertising; and private line services, as determined by analysis for a representative period. In determining the number of users, an individual customer is counted once for each class of service which he uses; for example a majority of customers are counted both as message toll telephone and telegram users and as exchange users.

(1) Expense allocated to message toll telephone and telegram users is apportioned among the operations on the basis of the relative number of non-affiliated company telegram messages, state message toll telephone messages, and interstate message toll telephone messages. In this apportionment, telegram messages are treated as exchange.

(2) Expense allocated to TWX users is apportioned between state and interstate operations on the basis of the relative number of TWX connections.

(3) Expenses allocated to exchange, including semi-public users, and to directory advertising users are assigned to the exchange operation.

(4) Expense allocated to private line services users is apportioned among the operations on the basis of the relative number of interstate and intrastate private line service accounts, as determined by analysis for a representative period.

§ 67.385 End user common line access charge billing expense.

(a) If end user common line charges for intrastate toll access are assessed in a particular state, one-half of the end user common line access charge billing expense shall be apportioned to the interstate operations. If no end user common line charge is assessed for intrastate toll access, all of the end user common line access charge billing expense shall be assigned to interstate operations.

§ 67.386 Other access charge billing expense.

(a) If access charges other than end user common line access charges are assessed for the origination or termination of intrastate services in a particular state, one-half of such expense shall be apportioned to interstate operations. If no such access charges are assessed in a particular state, all such expense shall be assigned to interstate operations.

General Expenses

§ 67.391 General.

(a) General expenses are included in the following accounts:

(1) Executive Department	Account 661
(2) Accounting Department	Account 662[4]
(3) Treasury Department	Account 663
(4) Law Department	Account 664
(5) Other General Office Salaries and Expenses	Account 665
(6) Insurance	Account 668
(7) Accidents and Damages	Account 669
(8) Other Expenses	Account 675
(9) Expenses Charged Construction—Cr	Account 677

§ 67.392 Apportionment procedures.

(a) The expenses in these accounts are segregated into two groups and apportioned among the operations as follows:

(1) The first group consists of expenses included in Accounts 661, 662, 663, 664, 665 and 667, excluding the revenue accounting expense portion of Account 662 and the engineering expense portion of Account 665. Expenses in this group are apportioned among the operations on the basis of the separation of the wage portion of maintenance, traffic, commercial and revenue accounting expenses, excluding the wage portion of the maintenance expenses related to general office space. The wage portion of maintenance expense related to maintenance of customer premises equipment shall be determined in a manner consistent with the phase out of maintenance expense provided in § 67.315(e).

(2) The second group consists of the expenses included in Accounts 668, 669, the engineering expense portion of Account 665 and the expenses included in Account 675, excluding extended area services (EAS) settlements, which are directly assigned to the exchange operation. Expenses in this group are apportioned among the operations on the basis of the separation of the cost of Telephone Plant in Service—Account 100.1, excluding the cost of plant assigned general office space and costs included in Accounts 201, 202, 203, 276 and 277.

Other Operating Expenses

§ 67.401 General.

(a) Other operating expenses are included in the following accounts:

(1) Operating Rents	Account 671
(2) Relief and Pensions	Account 672
(3) Telephone Franchise Requirements	Account 673
(4) General Services and Licenses	Account 674
(5) Telephone Franchise Requirements—Cr	Account 676

§ 67.402 Operating rents—account 671.

(a) Except where property obtained from affiliates is treated as owned property by the company making the separation and the related operating rents are excluded from the separations studies, as set forth in § 67.2[c], amounts in this account are apportioned among the operations on bases generally consistent with the treatment prescribed for similar plant costs and consistent

[4] Excluding Revenue Accounting Expenses (See Subpart D. Revenue Accounting Expenses.)

with the relative magnitude of the items involved.

§ 67.403 Relief and pensions—account 672.

(a) The expense in this account is apportioned among the operations on the basis of the separation of the wage portion of maintenance, traffic, commercial and revenue accounting expenses.

§ 67.404 Telephone franchise requirements—account 673.

(a) Amounts charged to this account are apportioned among the operations on the basis of the separation of the cost of Telephone Plant In Service—Account 100.1.

§ 67.405 General services and licenses—account 674.

(a) The expense in this account is apportioned among the operations on a basis consistent with the method employed in determining such expense.

§ 67.406 Telephone franchise requirements—Cr.—account 676.

(a) Amounts credited to this account, representing charges for telephone service which would have been made at standard rates, are assigned to the exchange operation.

(b) Amounts credited to this account, representing rental value of conduit space, are apportioned among the operations on the basis of the separation of the cost of Underground Conduit—Account 244.

Taxes

§ 67.411 General.

(a) Taxes are included in the following accounts:

(1) Federal Income Taxes—Operating.....Account 306
(2) Other Operating Taxes.....Account 307
(3) Operating Federal Income Taxes Deferred; Accelerated Tax Depreciation.....Account 308
(4) Income Credits Resulting from Prior Deferrals of Federal Income Taxes.....Account 309
(5) Federal Income Taxes—Non-operating.....Account 326
(6) Other Non-operating Taxes.....Account 327
(7) Income Tax Effect of Extraordinary and Delayed Items—Net.....Account 380

(b) The above accounts include federal, state, county, municipal and other taxes related to telephone plant, operations and privileges. They are apportioned among the operations as described in the following sections.

§ 67.412 Income taxes—Federal—account 306, State and Local—account 307.

(a) If a company is subject to local or state taxes on net income as well as to federal taxes based on net income, the taxes are treated separately, since the local or state taxes are deductible in the computation of the federal taxes.

(b) In the apportionment among the operations of local, state, or federal net income taxes, the first step is to determine the amount of taxes attributable to the operations. This amount is obtained by subtracting from the total taxes based on net income, the tax components (positive or negative) attributable to other than the operations.

(c) The tax component attributable to the fixed charges on non-operating investments is treated as non-operating. The fixed charges on non-operating investments are that proportion of total fixed charges which non-operating net investments are of total operating and non-operating net investments.

(d) The second step is to apportion among the operations the net income tax (positive or negative) attributable to all operations on the basis of the approximate net taxable income (positive or negative) applicable to each of the operations. The approximate net taxable income from each of the operations is the summation of the following amounts apportioned to each operation by means of the procedures set forth in this manual:

(1) Operating revenues,

(2) Less operating expenses,

(3) Less operating taxes except the net income tax being apportioned and except any other tax not treated as a deductible item in the determination of taxable net income for this purpose,

(4) Less operating fixed charges,

(5) Plus or minus, as appropriate, any miscellaneous items attributable to the operations which are not included in the foregoing, but which enter into the determination of the net income tax being apportioned.

(e) Operating fixed charges, i.e., total fixed charges less the portion applicable to non-operating investments determined as set forth in § 67.412(c), are apportioned among the operations on the basis of the separation of the cost of telephone plant, less appropriate reserves.

(f) If the tax to be apportioned among the operations is zero, i.e., there being neither a positive nor a negative tax, an approximate net taxable income (positive or negative) should be computed as above for each operation. The appropriate tax rate should be applied to any operations having positive net taxable income to determine the amount of tax assignable thereto. A negative amount, equal to the total apportioned to the operations having positive net taxable incomes, should be apportioned to the other operations on the basis of their respective negative net taxable incomes.

§ 67.413 Other operating taxes—account 307.

(a) Property Taxes—These taxes are apportioned among the operations on either: (1) The basis of the separation of the cost of Telephone Plant In Service—Account 100.1 or (2) the basis of the separation of the cost of the property in the subdivision of Account 100.1 related to the tax. The latter apportionment shall be employed only in instances where property taxes are levied on portions of Telephone Plant In Service.

(b) Gross Receipt Taxes—These taxes are apportioned among the operations on the basis of the separation of the receipts, earnings or income on which the taxes are levied.

(c) Capital Stock Taxes—These taxes, after adjustment to exclude any amounts applicable to non-operating investments, are apportioned among the operations on the basis of the separation of the cost of Telephone Plant In Service—Account 100.1.

(d) Social Security Taxes—These taxes are apportioned among the operations on the basis of the separation of the wage portion of maintenance, traffic, commercial and revenue accounting expenses.

(e) Other Taxes—These taxes are apportioned among the operations on the basis of the separation of the cost of Telephone Plant In Service—Account 100.1.

§ 67.414 Accelerated depreciation; income tax deferrals and credits—accounts 307, 308, 309.

(a) Amounts in these accounts are maintained by plant accounts and are apportioned among the operations on the basis of the separation of the related plant account.

§ 67.415 Operating portion of other income tax accounts—accounts 326, 327, and 380.

(a) The portion of taxes (positive or negative) in these accounts attributable to the operations is apportioned among the operations in the same manner as described in § 67.412.

Subpart E—Reserves

Reserves

§ 67.501 General.

(a) Reserves are included in the following accounts:

(1) Depreciation Reserve.....Account 171
(2) Amortization Reserve.....Account 172
(3) Accumulated Deferred Income Taxes—Accelerated Tax Depreciation.....Account 176

§ 67.502 Depreciation reserve—account 171.

(a) The depreciation reserve applicable to the total depreciable property is first allocated to plant accounts. Where such amounts are not available from the books of the company, this allocation is made on the basis of a determination of the straightline reserve theoretically applicable to the respective accounts. Each amount so allocated is then apportioned among the operations on the basis of the separation of the related plant account.

(b) The depreciation reserve associated with customer premises equipment in Accounts 231 and 234 except Category 2 equipment shall be determined as of December 31, 1982 as a base for the phaseout of customer premises equipment in those accounts. Starting with January, 1983 such base amount shall be reduced by one-sixtieth each month. Each amount so determined is then apportioned among the operations in accordance with the procedures used for the separation of the related CPE investment.

§ 67.503 Amortization Reserve—account 172.

(a) Amounts in this account are first allocated to the property accounts with which they are associated. Each amount so allocated is then apportioned among the operations on the basis of the separation of the related property account.

§ 67.504 Accumulated deferred income taxes—accelerated tax depreciation—account 176.

(a) Amounts in this account are maintained by plant accounts and are apportioned among the operations on the basis of the separation of the related plant account.

Subpart F—Universal Service Factor

General

§ 67.601 General.

(a) For purposes of § 69.501(a) of the Rules of the Federal Communications Commission, the Universal Service Factor portion of the interstate apportionment shall consist of an expense adjustment computed in accordance with this Section. The expense adjustment will be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to Subpart D.

(b) The expense adjustment will be computed on the basis of data for a preceding calendar year which may be updated at the option of the carrier pursuant to § 67.612(a).

Data Collection

§ 67.611 Submission of information to the National Exchange Carrier Association.

(a) In order to allow determination of the study areas which are entitled to an expense adjustment each local telephone company must provide the National Exchange Carrier Association established pursuant to Part 69 of the Commission's Rules with the information listed below for each of its study areas. This information is to be filed with the Association on June 30th of each year beginning in 1984. The information filed on June 30th of each year after 1984 will be used in the jurisdictional allocations underlying the cost support data for the access charge tariffs to be filed the following October.

(1) Unseparated, *i.e.*, state and interstate, gross plant investment in Outside subscriber Line Plant (OSP) Category 1.33, and COE Category 8.13 (in both cases excluding plant associated with WATS access lines). This amount shall be calculated as of December 31st of the year preceding each June filing.

(2) Unseparated depreciation reserve and accumulated deferred federal income taxes attributable to OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines). These amounts shall be calculated as of December 31st of the year preceding each June filing, and shall be stated separately.

(3) Unseparated depreciation expense attributable of OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines). This amount shall be the actual depreciation expense for the calendar year preceding each June filing.

(4) Unseparated maintenance expense attributable to OSP Category 1.33 investment and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines). This amount shall be the actual maintenance expense for the calendar year preceding each June filing.

(5) Unseparated general expenses, other operating expenses in Accounts 671, 672 and 674, and taxes. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each June filing. The amount for each category of expense listed shall be stated separately.

(6) Unseparated gross telephone plant investment. This amount shall be calculated as of December 31st of the year preceding each June filing.

(7) Unseparated depreciation reserve and accumulated deferred federal income taxes attributable to total unseparated telephone plant investment. This amount shall be calculated as of December 31st of the year preceding each June filing.

(8) The number of working subscriber line outside loops used jointly for non-wideband exchange and message telephone service, excluding WATS access lines and TWX service, but including subscriber line outside plant associated with pay telephones. (OSP Category 1.33 excluding WATS access lines and TWX service) This figure shall be calculated as of December 31st of the year preceding each June filing.

(9) The embedded cost of debt and the debt/equity ratio as of December 31st of the year preceding each June filing.

§ 67.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any telephone company may update the information submitted to the National Exchange Carrier Association pursuant to §§ 67.611(a)(1) through 67.611(a)(9) one or more times annually on a rolling year basis. Carriers wishing to update the preceding calendar year data filed June 30th may: (1) Submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of that year; (2) submit data on the last six months of the previous calendar year and the first six months of the existing year no later than December 30th of the existing year; and/or (3) submit data on the last three months of the second preceding calendar year and the first nine months of the preceding calendar year no later than March 30th of the existing year.

Calculation of Loop Costs for Expense Adjustment

§ 67.621 National and study area average unseparated loop cost per working loop.

(a) Study Area Unseparated Loop Cost. For the purposes of calculation of the expense adjustment, the study area unseparated loop cost is equal to the sum of the following:

(1) Return component for net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines). This amount is calculated by deducting the depreciation reserve and accumulated deferred federal income taxes attributable to OSP

Catetory 1.33 investment and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines) reported pursuant to § 67.611(a)(2) from the gross plant investment in OSP Category 1.33, and COE Category 8.13 (in both cases excluding plant associated with WATS access lines) reported pursuant to § 67.611(a)(1) to obtain the net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines). The net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines) is multiplied by the study area's cost of capital. The cost of capital is calculated by multiplying the embedded cost of debt times the percent of the total capital that is debt and adding to this amount the product of the authorized interstate rate of return on equity times the percent of total capital that is equity as this information is reported in § 67.611(a)(9).

(2) Depreciation expense attributable to OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding amounts associated with WATS access lines) as reported in § 67.611(a)(3).

(3) Maintenance expense attributable to OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding amounts associated with WATS access lines) as reported in § 67.611(a)(4).

(4) General, other expenses and taxes attributable to OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding amounts associated with WATS access lines). This amount equals the net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment (in both cases excluding amounts associated with WATS access lines) as calculated in § 67.621(a)(1) multiplied by the unseparated general and other expenses and taxes as reported in § 67.611(a)(5) divided by the unseparated net investment for total telephone plant for the study area. The unseparated net investment for total telephone plant for the study area equals the unseparated gross telephone plant investment as reported in § 67.611(a)(6) minus the unseparated depreciation reserve and accumulated deferred federal income taxes attributable to total telephone plant as reported in § 67.611(a)(7).

§ 67.622 National and study area average loop cost per loop.

(a) National Average Unseparated Loop Cost Per Working Loop. This is equal to the sum of the unseparated loop costs for each study area in the country as calculated pursuant to § 67.621(a) divided by the sum of the working loops reported in § 67.611(a)(8) for each study area in the country. The national average unseparated loop cost per working loop shall be calculated by the National Exchange Carrier Association.

(1) The national average unseparated loop cost per working loop shall be recalculated by the National Exchange Carrier Association to reflect the optional September, December and March update filings.

(2) Each new nationwide average shall be used in determining the additional interstate expense allocation for companies which made update filings by the most recent filing date.

(3) The calculation of a new national average to reflect the update filings shall not affect the amount of the additional interstate expense allocation for companies which did not make an update filing by the most recent filing date.

(b) Study Area Average Unseparated Loop Cost Per Working Loop. This is equal to the unseparated loop cost for the study area as calculated pursuant to § 67.621(a) divided by the number of working loops reported in § 67.611(a)(8) for the study area.

(1) If a company elects to update the data which it has filed with the National Exchange Carrier Association as provided in § 67.612(a), the study area average unseparated loop cost per working loop and the amount of its additional interstate expense allocation shall be recalculated to reflect the updated data.

Calculation of Expense Adjustment—Additional Interstate Expense Allocation

§ 67.631 Expense adjustment.

(a) The expense adjustment (additional interstate expense allocation) is equal to the sum of the following:

(1) Fifty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(2) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 160 percent of the national average for this cost, but not greater than 200 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(3) Seventy percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 200 percent of the national average for this cost, but not greater than 250 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

(4) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 67.622(b) in excess of 250 percent of the national average for this cost as calculated pursuant to § 67.622(a) multiplied by the number of working loops reported in § 67.611(a)(8) for the study area.

Transitional Expense Adjustment

§ 67.641 Transition.

(a) The expense adjustment for 1989 and subsequent years shall be the amount computed in accordance with § 67.631.

(b) No expense adjustment shall be made prior to 1986.

(c) The expense adjustments for 1986 through 1988 shall be as follows:

(1) One-fourth of the amount computed in accordance with § 67.631 in 1986;

(2) One-half of the amount computed in accordance with § 67.631 in 1987; and

(3) Three-fourths of the amount computed in accordance with § 67.631 in 1988.

Subpart G—Glossary

§ 67.701 Glossary.

The descriptions of terms in this glossary are broad and have been prepared to assist in understanding the use of such terms in the separation procedures. Terms which are defined in the text of this Part are not included in this glossary.

Access line—A communication facility extending from a customer premises to a serving central office comprising a subscriber line and, if necessary, a trunk facility, e.g., WATS access line, TWX access line.

Book cost—The cost of property as recorded on the books of a company.

Cable fill factor—The ratio of cable conductor or cable pair miles in use to total cable conductor or cable pair miles

available in the plant, e.g., the ratio of revenue producing cable pair miles in use to total cable pair miles in plant.

Category—A grouping of items property to facilitate the apportionment of their costs among the operations and to which, ordinarily, a common measure of use is applicable.

Central office—A switching unit, in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting subscriber lines and trunks or trunks only. There may be more than one central office in a building.

Channel—An electrical path suitable for the transmission of communications between two or more points, ordinarily between two or more stations or between channel terminations in Telephone Company central offices. A channel may be furnished by wire, radio or a combination thereof.

Circuit—A fully operative communications path established in the normal circuit layout and currently used for message, including WATS access, TWX, or private line services.

Circuit mileage or miles—The route miles of revenue producing circuits in service, determined by measuring the length, in terms of miles, of the actual path followed by the transmission medium.

Complement (of cable)—A group of conductors of the same general type (e.g., quadded, paired) within a single cable sheath.

Complex—All groups of operator positions, wherever located, associated with the same call distribution and/or stored program control unit.

Concentrating unit (TWX)—An arrangement of central office equipment wherein traffic over a number of TWX circuits is automatically concentrated onto a lesser number of circuits between the concentrating unit and its associated TWX switching office.

Concentration equipment—Central office equipment whose function is to concentrate traffic from subscriber lines onto a lesser number of circuits between the remotely located concentration equipment and the serving central office concentration equipment. This concentration equipment is connected to the serving central office line equipment.

Conversation-minute-miles—The product of: (a) The number of messages, (b) the average minutes of conversation per message and (c) the average route miles of circuits involved.

Cost—The cost of property owned by the Telephone Company whose property is to be apportioned among the operations. This term applies either to property costs recorded on the books of the company or property costs determined by other evaluation methods.

Current billing—The combined amount of charges billed, excluding arrears.

Customer dialed charge traffic—Traffic which is both: (a) Handled to completion through pulses generated by the customer and (b) for which either a message unit charge, bulk charge, or message toll charge is made, except for that traffic recorded by means of message registers.

Customer premises equipment—Items of telecommunications terminal equipment in Accounts 231 and 234 referred to as CPE in § 64.702 of the Federal Communications Commission's Rules adopted in the *Second Computer Inquiry* such as telephone instruments, data sets, dialers and other supplemental equipment, and PBXs which are provided by common carriers and located on customer premises and inventory included in these accounts to be used for such purposes. Excluded from this classification are similar items of equipment located on telephone company premises and used by the company in the normal course of business as well as over voltage protection equipment, inside wiring, coin operated, public or pay telephones, multiplexing equipment to deliver multiple channels to the customer, mobile radio equipment and transmit earth stations.

DSA board—A local dial office switchboard at which are handled assistance calls, intercepted calls and calls from miscellaneous lines and trunks. It may also be employed for handling certain toll calls.

DSB board—A switchboard of a dial system for completing incoming calls received from manual offices.

Data processing equipment—Office equipment such as that using punched cards, punched tape, magnetic or other comparable storage media as an operating vehicle for recording and processing information. Includes machines for transcribing raw data into punched cards, etc. but does not include such items as key-operated, manually or electrically driven adding, calculating, bookkeeping or billing machines, typewriters or similar equipment.

Dial switching equipment—Switching equipment actuated by electrical impulses generated by a dial or key pulsing arrangement.

Equivalent gauge—A standard cross section of cable conductors for use in equating the metallic content of cable conductors of all guages to a common base.

Equivalent miles of 104 wire—The basic units employed in the allocation of pole line costs for determining the relative use made of poles by aerial cables and by aerial wire conductors of various sizes. This unit reflects the relative loads of such cable and wire carried on poles.

Equivalent pair miles—The product of the sheath miles and the number of equivalent guage pairs of conductors in a cable.

Equivalent sheath miles—The product of: (a) The length of a section of cable in miles (sheath miles) and (b) the ratio of the metallic content applicable to a particular group of conductors in the cable (e.g., conductors assigned to a category) to the metallic content of all conductors in the cable.

Exchange circuit plant—This is a combination of: (a) Exchange outside plant, (b) exchange circuit equipment, including associated land and buildings and (c) station equipment.

Holding time—The time in which an item of telephone plant is in actual use either by a customer or an operator. For example, on a completed telephone call, holding time includes conversation time as well as other time in use. At local dial offices any measured minutes which result from other than customer attempts to place calls (as evidence by the dialing of at least one digit) are not treated as holding time.

Host central office—An electronic analog or digital base switching unit containing the central call processing functions which service the host office and its remote locations.

Interexchange channel—The portion of a private line circuit which is included in the interexchange circuit plant.

Interexchange circuit plant—The combination of: (a) Interexchange outside plant and (b) interexchange circuit equipment, including associated land and buildings.

Interlocal trunk—A circuit between two local central office units, either manual or dial. Interlocal trunks may be used for either exchange or toll traffic or both.

Intertoll circuits—Circuits between toll centers and circuits between a toll center and a long haul tandem system in a different toll center area.

Local channel—The portion of a private line circuit which is included in the exchange circuit plant. However, common usage of this term usually excludes station equipment.

Local office—A central office serving primarily as a place of termination for subscriber lines and for providing

telephone service to the subscribers on these lines.

Long haul toll traffic—A general term applied to message toll traffic between distant points. In common usage, this term is ordinarily applied to message toll traffic between points more than 20 to 50 miles apart.

Loop—A pair of wires, or its equivalent, between a customer's station and the central office from which the station is served.

Message—A completed call, i.e., a communication in which a conversation or exchange of information took place between the calling and called parties.

Message service—Switched service furnished to the general public (as distinguished from private line service). This includes exchange switched services and all switched services provided by interexchange carriers and completed by a local telephone company's access services, e.g., open-end FX and CCSA/ONALs, MTS, WATS, Execunet.

Message unit—Unit of measurement used for charging for measured message telephone exchange traffic within a specified area.

Metropolitan service area—The area around and including a relatively large city and in which substantially all of the message telephone traffic between the city and the suburban points within the area is classified as exchange in one or both directions.

Minutes of use—A unit of measurement expressed as either holding time or conversation time.

Minutes-of-use-miles—The product of: (a) The number of minutes of use and (b) the average route miles of the circuits involved.

Multi-center exchange—An exchange area in which are located two or more local central office buildings or wire centers.

Operations—The term denoting the three general classifications of services rendered to the public for which separate tariffs are filed, namely, exchage, state toll and interstate toll.

Operator trucks—A general term, ordinarily applied to trunks between manually operated switchboard positions and local dial central offices in the same wire center.

Private Line Service—A service for communications between specified locations for a continuous period or for regularly recurring periods at stated hours.

Remote Access Line—An access line (e.g., for WATS or TWX service)—between a subscriber's premises in one toll rate center and a serving central office located in a different toll rate center.

Remote Line Location—A remotely located subscriber line access unit which is normally dependent upon the central processor of the host office for call processing functions.

Remote Trunk Arrangement (RTA)—Arrangement that permits the extension of TSPS functions to remote locations.

Reservation—That amount of quantity of property kept or set apart for a specific use.

Reserved—Kept or set apart for a specific use.

Separations—The process by which telephone property costs, revenues, expenses, taxes and reserves are apportioned among the operations.

Service observing unit—A unit of work measurement which is used as the common denominator to express the relative time required for handling the various work functions at service observing boards.

Sheath miles—The actual length of a cable in route miles.

Short haul toll traffic—A general term applied to message toll traffic between nearby points. In common usage, this time is ordinarily applied to message toll traffic between points less than 20 to 50 miles apart.

Special services—All services other than message telephone, e.g., teletypewriter exchange service (TWX), private line services.

Station-to-Station basis—The term applied to the basis of toll rate making which contemplates that the message toll service charge (telephone or TWX) covers the use made of all facilities between the originating station and the terminating station, including the stations, and the services rendered in connection therewith.

Study Area—A telephone holding company's operations within a single state.

Subscriber line—A communication channel between a telephone station, P.B.X. or TWX station and the central office which serves it.

Subtributary office—A class of tributary office which does not have direct access to its toll center, but which is connected to its toll center office by means of circuits which are switched through to the toll center at another tributary office.

Tandem area—The general area served by the local offices having direct trunks to or from the tandem office. This area may consist of one or more communities or may include only a portion of a relatively large city.

Tandem circuit or trunk—A general classification of circuits or trunks between a tandem central office unit and any other central office or switchboard.

Tandem connection—A call switched at a tandem office.

Tandem office—A central office unit used primarily as an intermediate switching point for traffic between local central offices within the tandem area. Where qualified by a modifying expression, or other explanation, this term may be applied to an office employed for both the interconnection of local central offices within the tandem area and for the interconnection of these local offices with other central offices, e.g., long haul tandem office.

Toll center—An office (or group of offices) within a city which generally handles the originating and incoming toll traffic for that city to or from other toll center areas and which handles through switched traffic. The toll center normally handles the inward toll traffic for its tributary exchanges and, in general, either handles the outward traffic originating at its tributaries or serves as the outlet to interexchange circuits for outward traffic ticketed and timed at its tributaries. Toll centers are listed as such in the Toll Rate and Route Guide.

Toll center area—The areas served by a toll center, including the toll center city and the communities served by tributaries of the toll center.

Toll center toll office—A toll office (as contrasted to a local office) in a toll center city.

Toll circuit—A general term applied to interexchange trunks used primarily for toll traffic.

Toll connecting trunk—A general classification of trunks carrying toll traffic and ordinarily extending between a local office and a toll office, except trunks classified as tributary circuits. Examples of toll connecting trunks include toll switching trunks, recording trunks and recording-completing trunks.

Toll office—A central office used primarily for supervising and switching toll traffic.

Traffic over first routes—A term applied to the routing of traffic and denoting routing via principal route for traffic between any two points as distinguished from alternate routes for such traffic.

Traffic Service Position System (TSPS)—A stored program electronic system associated with one or more toll switching systems which provides centralized traffic service position functions for several local offices at one location.

Traffic unit—A unit of measurement of traffic operating work which is used as the common denominator to express the relative time required for handling

the various kinds of calls or work functions.

Tributary circuit—A circuit between a tributary office and a toll switchboard or intertoll dialing equipment in a toll center city.

Tributary office—A local office which is located outside the exchange in which a toll center is located, which has a different rate center from its toll center and which usually tickets and times only a part of its originating toll traffic, but which may ticket and time all, or none, of such traffic. The toll center handles all outward traffic not ticketed and timed at the tributary and normally switches all inward toll traffic from outside the tributary's toll center area to the tributary. Tributary offfices are indicated as such in the Toll Rate and Route Guide.

Trunks—Circuit between switchboards or other switching equipment, as distinguished from circuits which extend between central office switching equipment and station equipment.

TSPS Complex—All groups of operator positions, wherever located, associated with the same TSPS stored program control unit.

TWX—Teletypewriter Exchange Service.

TWX connection—A completed TWX call, i.e., a call on which a TWX communication was passed between the calling and called stations.

TWX connection-minute-miles—The product of: (a) The number of TWX connections, (b) the average minutes per TWX connection and (c) the average route miles of circuits involved.

TWX Switching Plan Trunks—Interexchange circuits, excluding remote access lines, which handle 100 words per minute TWX traffic only.

Weighted Standard Work Second—A measurement of traffic operating work which is used to express the relative time required to handle the various kinds of calls or work functions, and which is weighted to reflect appropriate degrees of waiting to serve time.

Wide area telephone service (WATS)—A toll service offering for customer dial type telecommunications between a given customer station and stations within specified geographical rate areas employing a single access line between the customer location and the serving central office. Each access line may be arranged for either outward (OUT–WATS) or inward (IN–WATS) service but not for both.

Wideband Channel—A communication channel of a bandwidth equivalent to twelve or more voice grade channels.

Working loop—A revenue producing pair of wires, or its equivalent, between a customer's station and the central office from which the station is served.

Note.— This attachment will not appear in the Code of Federal Regulations.

Attachment B

This attachment shows the changes which the Commission made in the Joint Board's recommended revisions to the *Separations Manual*.

The revisions proposed by the Joint Board in CC Docket 80–286 are revised [1] as follows:

1. Paragraph 11.19 is deleted.

2. Subparagraph 11.22(d) (now § 67.2(b)(3)(iv)) is revised by adding the words ", except as otherwise provided" after the words "between state and interstate operations".

3. Paragraph 11.251 (now § 67.2(e)(1)) is revised by adding the words "and associated expenses, taxes and reserves" after the words "customer premises equipment" in the first sentence and the word "CPE" in the last sentence.

4. Paragraph 11.26 (now § 67.2(f)) is revised by adding the words "associated with services or plant billed to another company" after the word "Costs".

5. Paragraph 23.213 (now § 67.122(a)(3)) is revised by adding the words "including WATS access line's' after the words "message telephone" and deleting the words "for WATS access lines," after the words "TWX subscriber lines,".

6. The second sentence of Paragraph 23.421 (now § 67.124(b)(1)) is revised by substituting the word "service" for the words "transmission facility" and the word "facility".

7. Paragraph 23.43 (now § 67.124(c)) is revised by substituting the word "including" for the word "excluding" in Category 1.22, deleting the words "and exclusively for interstate WATS access" in Category 1.24, and deleting the words "and exclusively for state WATS access" in Category 1.25.

8. Paragraph 23.44 (now § 67.124(d)) is revised by deleting the words "and exclusively for state WATS access" in Category 1.31, deleting the words "and exclusively for interstate WATS access" in Category 1.32, and substituting the word "including" for the word "excluding" in Category 1.33.

9. Paragraph 23.442 (now § 67.124(d)(2)) is revised by deleting the words "and state and interstate WATS access".

10. Paragraph 23.443 (now § 67.124(d)(3)) is revised by adding the word "and" after the words "TWX service", deleting the words "and WATS access" after the words "private line", and substituting the word "service" for "services".

11. Subparagraph 23.447(a) (now § 67.124(d)(7)(i)) is revised by substituting ", OSP Category 1.33 and COE Category 8.13" for the words "and OSP Category 1.33".

12. Subparagraph 23.447(b) (now § 67.124(d)(7)(ii)) is revised by adding ", COE Category 8.13" after each reference to "OSP Category 1.33".

13. Subparagraph 23.447(d) (now § 67.124(d)(7)(iv)) is revised by adding the words "associated with OSP Category 1.33" after the words "inside wire" and after the words "inside wire investment".

14. Subparagraph 23.447(e) (now § 67.124(d)(7)(v)) is revised by adding the words "associated with OSP Category 1.33" after both references to "inside wire investment" and adding the word "investment" after the words "attributable to OSP Category 1.33".

15. Paragraph 24.131 (now § 67.131(c)(1)) is revised by adding the word "common" after the words "specific category, e.g." and by substituting the words "(excluding power equipment not dependent upon common power equipment)" for the words "including power equipment,".

16. Paragraph 24.93 (now § 67.139(c)) is revised by adding the words "or weighted standard work seconds" after the words "TWX traffic units".

17. Subparagraph 24.02 (now § 67.140(b)(3)) is revised by adding the words "other than wideband equipment" after the words "included in Categories 8.12".

18. Paragraph 25.11 (now § 67.151(a)) is revised by adding the following words "Public Telephone Equipment . . . . Account 235" at the end of the accounts listed.

19. Paragraph 25.112 (now § 67.151(a)(2)) is revised by adding the words "other than inside wiring provided for private line services" after the words "232 and 234", and by substituting "through" for "and" after the words "Paragraph 23.444" (now § 67.124(d)(4)).

20. Paragraph 25.25 (now § 67.152(e)) is revised by substituting the phrase "described in Paragraphs 23.444 through 23.447" (now §§ 67.124(d)(4)–67.124(d)(7)) for the phrase "described in Par. 23.444".

[1] Attachment A reflects the existing *Separations Manual* and all of the changes adopted by the Commission as well as certain other changes made to satisfy the requirements of the **Federal Register**, and conform the *Separations Manual* to the format of the Commission's Rules.

21. Paragraph 42.11 (now § 67.311(a)) is revised by adding the words "Repairs of Public Telephone Equipment . . . Account 607" after the words "Repairs of Buildings and Grounds . . . Account 606".

22. Paragraph 42.322 (now § 67.313(b)(2)) is revised by substituting the word "including" for the word "excluding" in both instances and deleting the words "WATS access" when they are not parenthesized.

23. Paragraph 42.323 (now § 67.313(b)(3)) is revised by substituting the word "including" for the word "excluding".

24. Paragraph 42.325 (now § 67.313(b)(5)) is revised by deleting the words "and WATS access" in both instances, substituting the word "is" for the word "are", and adding the word "and" before the words private line local channels".

25. Paragraph 42.334 (now § 67.313(c)(4)) is revised by deleting the words "WATS access," after the words "TWX service" and substituting the word "including" for the word "excluding".

26. Paragraph 42.336 (now § 67.313(c)(6)) is revised by adding the word "expense" after the word "testing".

27. Paragraph 42.5 (now § 67.315(a)) is revised by adding the words "Inside Wiring Installation Expense" after the words "Shop Repairs and Salvage Adjustments".

28. Paragraph 42.56 (now § 67.315(f)) is revised by substituting the words "the apportionment of investment in such wiring" for the words "OSP Category 1.33 plant provided in paragraphs 23.444 through 23.447".

29. New paragraphs 42.0 (now § 67.317) and 42.01 (now § 67.317(a)) are added which read as follows: [2]

42.0 Repairs of Public Telephone Equipment—Account 607

42.01 The amount in this account is allocated in the same manner as Public Telephone Equipment.

30. Paragraph 44.52 (now § 67.345(b)) is revised by deleting the words "plus TWX" after the word "telephone" and adding the words "plus TWX weighted standard work seconds or traffic units" after the words "work seconds".

31. Paragraph 44.61 (now § 67.346(a)) is revised by adding the words "or traffic units" after the words "work seconds".

32. Paragraph 45.41 (now § 67.364(a)) is revised by substituting the word "including" for the word "excluding" and deleting the words "and WATS access" after the words "private line services".

33. Paragraph 46.12 (now § 67.381(b)) is revised by substituting the word "five" for the word "three", by deleting the word "and" after the words "local message processing expense" and adding the words "end user common line access charge billing expense; and other access charge billing expense." at the end of the paragraph.

34. Paragraph 46.121 (now § 67.381(b)(1)) is revised by substituting the word "five" for the word "three".

35. Paragraph 46.41 (now § 67.384(a)) is revised by adding the words "other than access charge bills" after the words "preparation of customer bills" in the first sentence.

36. New paragraphs 46.5 (now § 67.385) and 46.6 (now § 67.386) are added which read as follows:

46.5 End User Common Line Access Charge Billing Expense. If end user common line charges for intrastate toll access are assessed in a particular state, one-half of the end user common line access charge billing expense shall be apportioned to the interstate operations. If no end user common line charge is assessed for intrastate toll access, all of the end user common line access charge billing expense shall be assigned to interstate operations.

46.6 Other Access Charge Billing Expense. If access charges other than end user common line access charges are assessed for the origination or termination of intrastate services in a particular state, one-half of such expense shall be apportioned to interstate operations. If no such access charges are assessed in a particular state, all such expense shall be assigned to interstate operations.

37. Revise the first sentence of paragraph 49.31 (now § 67.413(a)) by substituting the words "in the subdivision of Account 100.1 related to the tax" for the words "upon which the tax is levied".

38. Paragraph 61.11 (now § 67.601(a)) is revised by deleting the remainder of the first sentence after the words "with this Section" and by deleting the last sentence.

39. Paragraph 61.12 (now § 67.601(b)) is revised by deleting the last sentence.

40. Paragraphs 62.1 (now § 67.611), 62.11 (now § 67.611(a)), 62.2 (now § 67.612), 62.21 (now § 67.612(a)), 63.21 (now § 67.622(a)), 63.211 (now § 67.622)(a)(1)(i)), and 63.221 (now § 67.622(b)(1)) are revised by adding the word "National" before the words "Exchange Carrier Association".

41. Paragraph 62.11 (now § 67.611(a)) is revised by substituting the word "1984" for the word "1985" in the second sentence, adding the words "after 1984" after the words "each year" in the third sentence and deleting the words "or the designation of a high cost portion of the interstate end user common line revenue requirements" in the first sentence.

42. Subparagraph 62.11(a) (now § 67.611(a)(1)) is revised by adding the words ", and COE Category 8.13 (in both cases excluding plant associated with WATS access lines)" after the reference to "OSP Category 1.33".

43. Subparagraph 62.11(b) (now § 67.611(a)(2)) is revised by adding the words ", and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines)" after the reference to "OSP Category 1.33 investment".

44. Subparagraphs 62.11 (c) and (d) (now § 67.611(a) (3) and (4)) are revised by adding the words "investment, and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines)" after each reference to "OSP Category 1.33".

45. Subparagraph 62.11(h) (now § 67.611(a)(8)) is revised by adding the words "excluding WATS access lines and TWX service)" after the words "(OSP Category 1.33".

46. Subparagraph 62.11(j) is deleted.

47. Paragraph 62.21 (now § 67.612(a)) is revised by adding the word "the" after the words "first nine months of".

48. Subparagraph 63.11(a) (now § 67.621(a)(1)) is revised by adding the words "and COE Category 8.13 investment (in both cases excluding investment associated with WATS access lines)" after each reference to "OSP Category 1.33 investment".

49. Subparagraph 63.11(a) (now § 67.621(a)(1)) is revised by adding the words ", and COE Category 8.13 (in both cases excluding plant associated with WATS access lines)" after the reference to "investment in OSP Category 1.33".

50. Subparagraphs 63.11(b)–(d) (now § 67.621(a)(2)–(4)) are revised by adding the words ", and COE Category 8.13 investment (in both cases excluding amounts associated with WATS access lines)" after each reference to "OSP Category 1.33 investment".

51. Parts 6 and 7 of Section 6 (now Subpart F) are deleted.

52. In the glossary the definition of the word circuit is revised by adding the word "including" before the words "WATS access".

Note.—This attachment will not appear in the Code of Federal Regulations.

[2] These paragraphs have been inserted in Attachment A after Paragraph 42.6 (now § 67.316) and subsequent paragraphs have been renumbered.

Attachment C

CONVERSION TABLE FROM SEPARATIONS MANUAL to Code of Federal Regulations

Old paragraph	New section
11.1	67.1
11.2	67.2
21.1	67.101
21.2	67.102
22.1	67.111
22.2	67.112
22.3	67.113
23.1	67.121
23.2	67.122
23.3	67.123
23.4	67.124
23.5	67.125
23.6	67.126
24.1	67.131
24.2	67.132
24.3	67.133
24.4	67.134
24.5	67.135
24.6	67.136
24.7	67.137
24.8	67.138
24.9	67.139
24.0	67.140
25.1	67.151
25.2	67.152
25.3	67.153
26.1	67.161
26.2	67.162
27.1	67.171
27.2	67.172
28.1	67.181
28.2	67.182
28.3	67.183
29.1	67.191
29.2	67.192
31.1	67.201
31.2	67.202
32.1	67.211
32.2	67.212
32.3	67.213
32.4	67.214
32.5	67.215
33.1	67.221
33.2	67.222
33.3	67.223
33.4	67.224
33.5	67.225
33.6	67.226
34.1	67.231
41.1	67.301
41.2	67.302
42.1	67.311
42.2	67.312
42.3	67.313
42.4	67.314
42.5	67.315
42.6	67.316
	67.317
42.7	67.318
42.8	67.319
42.9	67.320
43.1	67.331
43.2	67.332
43.3	67.333
43.4	67.334
44.1	67.341
44.2	67.342
44.3	67.343
44.4	67.344
44.5	67.345
44.6	67.346
44.7	67.347
44.8	67.348
44.9	67.349
44.0	67.350
45.1	67.361
45.2	67.362
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[FR Doc. 84-5672 Filed 3-1-84; 8:45 am]
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federal register

Friday
March 2, 1984

Part VI

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Part 81

Lethal Avian Influenza; Interim Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-018]

Lethal Avian Influenza; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Lethal Avian Influenza interim rule by reducing the area designated as a quarantined area in Pennsylvania because of lethal avian influenza. The quarantined area is changed by deleting a portion of Franklin County from the quarantined area (with this change all of Franklin County is outside of the quarantined area). The quarantined area was established as part of a mechanism to help prevent the spread of lethal avian influenza. However, it is no longer necessary to quarantine the deleted area for such purpose.

DATES: Effective date is February 29, 1984. Written comments must be received on or before May 1, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION:

Background

This document amends the "Lethal Avian Influenza" interim rule which is set forth in 9 CFR Part 81 (48 FR 51422-51423, 51798, 52420-52427, 52885-52887, 53586, 53678-53679, 53679-53681, 53997, 54574-54575, 55402-55405, 55722, 57474-57475, 49 FR 368-269, 2742-2744, 3494, 3839-3845, 5723-5724). Among other things, the interim rule designates portions of Maryland, Pennsylvania, New Jersey, and Virginia as quarantined areas and prohibits or restricts certain interstate movements from quarantined areas of poultry, poultry eggs, and other items because of lethal avian influenza.

Lethal avian influenza is defined as a disease of poultry caused by any form of H5 influenza virus that is determined by the Deputy Administrator to have spread from the 1983 outbreak in poultry in Pennsylvania.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Reduction of Quarantined Area in Pennsylvania

Prior to the effective date of this document, the quarantined area in Pennsylvania included portions of Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Schuylkill, and York Counties. This document reduces the quarantined area in Pennsylvania by deleting a portion of Franklin County from the quarantined area (with this change all of Franklin County is outside of the quarantined area). The portion of Franklin County that was included in the quarantined area was included because of the finding of lethal avian influenza in live poultry on a premises in Adams County in Pennsylvania. The poultry on the infected premises in Adams County have been depopulated. Also, extensive surveys conducted on all commerical poultry and more than half the backyard flocks in Franklin County indicates no lethal avian influenza virus or antibodies in the previously quarantined area of Franklin County.

The Department has determined that it is necessary that a quarantined area have easily understood boundary lines, include the premises where lethal avian influenza is found, and include at least a five mile buffer zone in every direction from premises where the disease is found. Also, if the boundary line under the above criteria would be contiguous to areas containing high concentrations of poultry, it has been determined that it is necessary that the quarantined area include the contiguous areas containing high concentrations of poultry. Further, if the boundary line under the above criteria would encompass and be contiguous to large areas in which there is no poultry production, it has been determined that the quarantined area should be adjusted to exclude any such areas.

Prior to the effective date of this document, the quarantined area in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Schuylkill, and York Counties in Pennsylvania was described as:

That portion of Pennsylvania beginning at the intersection of Interstate Highway 81 with the Pennsylvania-Maryland State Line; then northeasterly along Interstate Highway 81 to its intersection with the Susquehanna River; then northeasterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with Interstate Highway 81.

Under the circumstances and criteria explained above, it is no longer necessary to include any of Franklin County in the quarantined area in Pennsylvania. However, it is necessary to regain the following area in Adams, Berks, Chester, Cumberland, Dauphin, Lancaster, Lebanon, Schuylkill, and York Counties in Pennsylvania as a quarantined area:

That portion of Pennsylvania beginning at the intersection of the Franklin-Adams County Line with the Pennsylvania-Maryland State Line; then northerly along the Franklin-Adams County Line to the Franklin-Cumberland County Line; then northwesterly along the Franklin-Cumberland County Line to its intersection with Interstate Highway 81; then northeasterly along Interstate Highway 81 to its intersection with the Susquehanna River; then northeasterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA

Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with the Franklin-Adams County Line.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from a portion of Franklin County in Pennsylvania.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register.**

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from a portion of Franklin County in Pennsylvania.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

Under the circumstances referred to above, § 81.4(c) of 9 CFR Part 81 is revised to read as follows:

PART 81—LETHAL AVIAN INFLUENZA

§ 81.4 Quarantined areas.

* * * * *

(c) The following area in Adams, Berks, Chester, Cumberland, Dauphin, Lancaster, Lebanon, Schuylkill, and York Counties of Pennsylvania is designated as a quarantined area: That portion of Pennsylvania beginning at the intersection of the Franklin-Adams County Line with the Pennsylvania-Maryland State Line; then northerly along the Franklin-Adams County Line to the Franklin-Cumberland County Line; then northwesterly along the Franklin-Cumberland County Line to its intersection with Interstate Highway 81; then northeasterly along Interstate Highway 81 to its intersection with the Susquehanna River; then northeasterly along the Susquehanna River to its intersection with PA Highway 325; then northeasterly along PA Highway 325 to its intersection with U.S. Highway 209; then northeasterly along U.S. Highway 209 to its intersection with PA Highway 61; then southeasterly along PA Highway 61 to its intersection with Interstate Highway 78; then northeasterly along Interstate Highway 78 to its intersection with the Berks-Lehigh County Line; then southeasterly along the Berks-Lehigh County Line to its intersection with the Berks-Montgomery County Line; then southwesterly along the Berks-Montgomery County Line to its intersection with U.S. Highway 422; then southeasterly along U.S. Highway 422 to its intersection with PA Highway 100; then southerly along PA Highway 100 to its intersection with the Pennsylvania-Delaware State Line; then southwesterly along the Pennsylvania-Delaware State Line to its intersection with the Pennsylvania-Maryland State Line; then westerly along the Pennsylvania-Maryland State Line to its intersection with the Franklin-Adams County Line.

* * * * *

(Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C. this 29th day of February, 1984.

W. E. Ketter,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-5938 Filed 3-1-84; 11:55 am]

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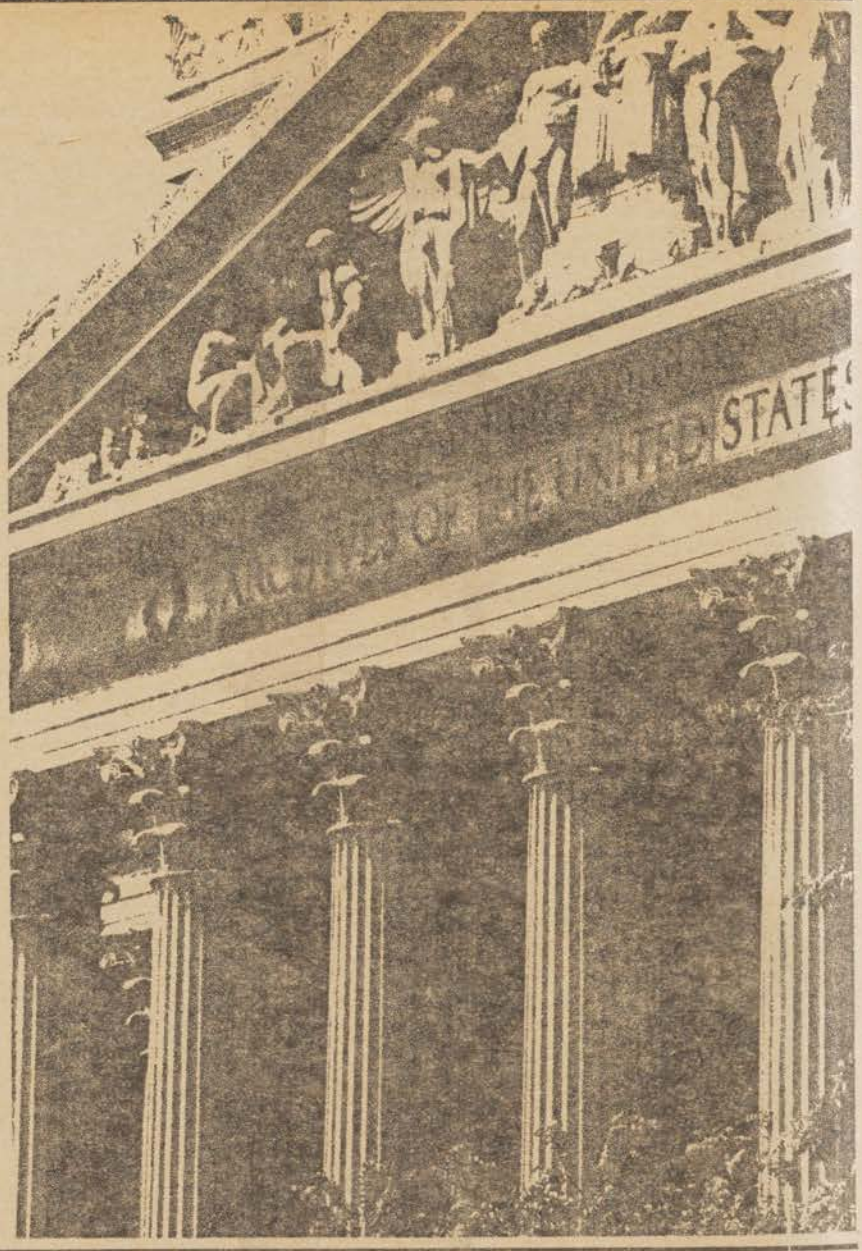
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