9-14-82
Vol. 47 No. 178
Pages 40397-40522

federal register

Tuesday
September 14, 1982

Selected Subjects

Administrative Practice and Procedure
Land Management Bureau

Animal Drugs
Food and Drug Administration

Claims
National Oceanic and Atmospheric Administration

Fisheries
National Oceanic and Atmospheric Administration

Food Ingredients
Food and Drug Administration

Food Stamps
Food and Nutrition Service

Maritime Carriers
Federal Maritime Commission

Marketing Agreements
Agricultural Marketing Service

Military Personnel
Air Force Department

Poison Prevention
Consumer Product Safety Commission

Radio Broadcasting
Federal Communications Commission

Rural Housing
Farmers Home Administration

Television Broadcasting
Federal Communications Commission

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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.

Contents

Federal Register
Vol. 47, No. 178
Tuesday, September 14, 1982

Agricultural Marketing Service
PROPOSED RULES
40443 Plant Variety Protection Board; meeting
40447 Raisins produced from grapes grown in Calif.

Agriculture Department
See Agricultural Marketing Service; Farmers Home Administration; Food and Nutrition Service; Soil Conservation Service.

Air Force Department
RULES
Personnel review boards:
40411 Discharge Review Board; standards and procedures
40411 Military Records Correction Board and Discharge Review Board; standards and procedures
NOTICES
40462 Agency forms submitted to OMB for review
Meetings:
40463 Scientific Advisory Board
Patent licenses, exclusive:
40463 Zimmer, U.S.A., Inc.

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
40451 Wine labeling and advertising; harvest dates for fruit wines; withdrawn

Army Department
NOTICES
40463 Agency forms submitted to OMB for review (2 documents)

Centers for Disease Control
NOTICES
Meetings:
40487 Immunization Practices Advisory Committee

Civil Aeronautics Board
NOTICES
40461 Commuter fitness determinations
Hearings, etc.:
40461 Firstair Corp. fitness determination

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
40461 Rhode Island
40461 South Dakota
40462 Tennessee

Commerce Department
See National Bureau of Standards; National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
RULES
Poison prevention packaging:
40407 Prednisone tablets; child-resistant packaging exemption

Customs Service
NOTICES
Trade name recordation applications:
40519 The Bayer Company

Defense Department
See also Air Force Department; Army Department; Defense Logistics Agency.
NOTICES
40464 Agency forms submitted to OMB for review
Meetings:
40464 Science Board
40464 Science Board task forces

Defense Logistics Agency
NOTICES
40462 Agency forms submitted to OMB for review

Economic Regulatory Administration
NOTICES
Consent orders:
40465 Union Texas Petroleum Corp.
Remedial orders:
40465 Inland Crude Purchasing Corp.

Education Department
NOTICES
Grant applications and proposals; closing dates:
40464 Handicapped research; training and rehabilitation engineering centers and research and demonstration and knowledge dissemination and utilization projects; correction

Employment and Training Administration
NOTICES
Adjustment assistance:
40505 HI-LO Manufacturing Corp. et al.
Unemployment compensation; extended benefit periods:
40505 Virgin Islands

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission.

Equal Employment Opportunity Commission
NOTICES
40522 Meetings; Sunshine Act

Farmers Home Administration
RULES
Rural housing loan and grants:
40398 Home repairs (Section 504)

Federal Communications Commission
RULES
Common carrier services:
40413 Domestic fixed-satellite transponder sales
Radio stations; table of assignments:
40428 Idaho
40431 Kentucky and Tennessee

40433 Maine
40429 Nebraska
40435 Texas (2 documents)
40436 Wyoming
PROPOSED RULES
Radio stations; table of assignments:
40451 Alaska
40452 Arkansas
40454 California
40456 Louisiana
40459 Utah
Television stations; table of assignments:
40455 Florida
40457, 40458 Texas (2 documents)

Federal Deposit Insurance Corporation
NOTICES
40477 Agency forms submitted to OMB for review

Federal Emergency Management Agency
NOTICES
40477 Riots or civil disorder losses; reinsurance

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
40465 Bean, Richard L., et al.
40465 Cajun Electric Power Cooperative, Inc.
40466 Central Vermont Public Service Corp.
40466 Cleveland Electric Illuminating Co. (2 document)
40466, 40467 Columbia Gas Transmission Corp. (2 documents)
40467 Florida Gas Transmission Co.
40468 Holman, Raymond R.
40468 Homestake Consulting & Investment, Inc.
40468 Howell Pipeline Co., Inc.
40469 Hurn Shingle Co., Inc.
40469, 40470 Hy-Tech Co. (2 documents)
40471 Idaho Power Co.
40471 Kentucky Untilities Co.
40471 Lockhart Power Co.
40471 Michigan Consolidated Gas Co.
40472 Modesto Irrigation District
40472 Mountain Fuel Supply Co.
40472 Mountain West Hydro, Inc.
40473 Natural Gas Pipeline Co. of America
40474 New England Power Co. (2 documents)
40474 North Valley Land Corp.
40474 Southern Natural Gas Co.
40475 Tennessee Gas Pipeline Co. et al.
40476 Trailblazer Pipeline Co.
40476 Utah Power & Light Co.
40477 Washington Water Power Co.

Federal Home Loan Bank Board
NOTICES
40522 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
40410 Mutual mortgage insurance and rehabilitation loans; single-family mortgagors, qualifications for temporary assistance; correction

Federal Maritime Commission
RULES
40413 Shipping in foreign trade of United States; actions to adjust or meet unfavorable conditions; Guatemala; CFR Part removed
NOTICES
Freight forwarder licenses:
40482 Consolidated Material Expediting, Inc.
40483 Houston Expeditors
40483 Intership, Inc.

Federal Reserve System
NOTICES
40483 Agency forms submitted to OMB for review
Applications, etc.:
40486 Banco Latino International
40486 Citicorp
40486 Hong Kong & Shanghai Banking Corp. et al.
40484 Wakulla Bancorp et al.
40486 Westbrand, Inc.
Bank holding companies; proposed de novo nonbank activities:
40485 Chase Manhattan Corp. et al.
40484 U.S. Bancorp et al.
40522 Meetings; Sunshine Act

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
40519 Voyager Guaranty Insurance Co.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
40409 Norwich Eaton Pharmaceuticals, Inc.; sponsor name change from Norwich-Eaton Pharmaceuticals
Food additives:
40409 Adjuvants, production aids, and sanitizers; calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl)phosphonate]; correction
Medical devices:
40410 Anesthesiology; general provisions and classification; correction
PROPOSED RULES
GRAS or prior-sanctioned ingredients:
40448 Riboflavin and riboflavin-5'-phosphate (sodium)
NOTICES
Food for human consumption:
40487 Histamine in tuna, defect action levels; availability of guide
Meetings:
40488 Blood Products Advisory Committee; time change
40488 Consumer information exchange

Food and Nutrition Service
RULES
Food stamp program:
40397 Thrifty Food Plan adjustments
PROPOSED RULES
Food stamp program:
40443 Energy assistance program, income and resource exclusion; and limitation on restoration of lost benefits

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Public Health Service.

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
40489 Agency forms submitted to OMB for review

Inter-American Foundation
NOTICES
40522 Meetings; Sunshine Act

Interior Department
See also Land Management Bureau; Minerals Management Service; National Park Service.
NOTICES
Meetings:
40493 Oil Shale Environmental Advisory Panel

Internal Revenue Service
NOTICES
Senior Executive Service:
40519 Performance Review Board; membership

Interstate Commerce Commission
NOTICES
Motor carriers:
40493, 40494 Finance applications (2 documents)
40496, 40497 Permanent authority applications (2 documents)
40503 Permanent authority applications; operating rights republication
40501 Permanent authority applications; restriction removals
Rail carriers; contract tariff exemptions:
40503 Atchison, Topeka & Santa Fe Railway Co.
40503 Consolidated Rail Corp.
40504 Denver & Rio Grande Western Railroad Co.
40503 Soo Line Railroad Co.
Railroad operation, acquistion, construction:
40504 Pocono Northeast Railway, Inc.
Railroad services abandonment:
40504 Consolidated Rail Corp.

Justice Department
See Parole Commission.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration; Labor Statistics Bureau; Pension and Welfare Benefit Programs Office.

Labor Statistics Bureau
NOTICES
Meetings:
40504 Business Research Advisory Council Committees

Land Management Bureau
RULES
Administrative procedures:
40412 Simultaneous oil and gas leasing application forms; application procedures and filing
NOTICES
Environmental statements; availability, etc.:
40490 Sierra Planning Unit, Folsom Resource Area, Bakersfield District, Calif.; livestock grazing management program
Wilderness areas; characteristics, inventories, etc.:
40489 Utah

Merit Systems Protection Board
NOTICES
40508 "Appeals Rights and Procedures"; publication availability
40508 Prohibited personnel practices; regulation review; inquiry

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
40490 Outer Continental Shelf; Beaufort Sea, Alaska; sand and gravel lease sale
40490 Outer Continental Shelf Program; use of Land Management Bureau and Geological Survey forms

National Aeronautics and Space Administration
NOTICES
Meetings:
40509 Advisory Council; postponement

National Bureau of Standards
NOTICES
Information processing standards, Federal:
40462 Interface standards exclusion list procedures; correction

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
40437 Fees provisions; Fisherman's Protective Act claims
Fishery conservation and management:
40438 Atlantic billfishes and sharks; foreign fishing
40441 Gulf of Alaska groundfish; correction
NOTICES
Meetings:
40462 South Atlantic and Gulf of Mexico Fishery Management Councils

National Park Service
NOTICES
Authority delegations:
40491 National Park Service Regions, Directors (2 documents)
Environmental statements; availability, etc.:
40491 Georgia O'Keefe National Historic Site, N. Mex.; general management and development plan
Historic Places National Register; pending nominations:
40491 Arkansas et al.
Meetings:
40491 National Park System Advisory Board

Occupational Safety and Health Administration
RULES
Health and safety standards:
40410 Lead; occupational exposure; lead smelting and battery manufacturing industries; temporary stay of compliance date

Parole Commission
RULES
Federal prisoners; paroling, releasing, recommitting, and supervising:
40410 Prisoners paroled with outstanding State or local detainer; conditions for release to community; correction

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
40506 Southeast Florida Laborer's District Council Severance Pay Trust Fund et al.

Public Health Service
NOTICES
Patent licenses, exclusive:
40488 Aerojet Strategic Propulsion Co.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
40509 American Express Variable Annuity Fund Inc.
40511 E. F. Hutton & Co., Inc., et al.
40514 Paine Webber United States Government & Federal Agencies Trust et al.
40516 Shearson Daily Tax-Free Dividend, Inc.
Self-regulatory organizations; proposed rule changes:
40511 National Association of Securities Dealers, Inc.

Small Business Administration
NOTICES
Meetings; regional advisory councils:
40518 Alabama
40518 Illinois
40518 Montana
40518 Ohio
40518 Oklahoma

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
40461 Upper Chester River Watershed, Md. and Del.; record of decision

State Department
NOTICES
40519 Tanzania; assistance determination

Student Financial Assistance, National Commission
NOTICES
40522 Meetings; Sunshine Act

Treasury Department
See also Alcohol, Tobacco and Firearms Bureau; Customs Service; Fiscal Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
40520 W-1984 series

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
272 40397
273 40397
1904 40398
1944 40398
Proposed Rules:
180 40443
272 40443
273 40443
989 40447

16 CFR
1700 40407

21 CFR
178 40409
510 40409
868 40410
Proposed Rules:
182 40448
184 40448

24 CFR
203 40410

27 CFR
Proposed Rules:
4 40451

28 CFR
2 40410

29 CFR
1910 40410

32 CFR
865 (2 documents) 40411

43 CFR
1820 40412

46 CFR
507 40413

47 CFR
Ch. I 40413
73 (7 documents) 40428–40436
Proposed Rules:
73 (8 documents) 40451–40459

50 CFR
258 40437
611 40438
672 40441

Rules and Regulations

Federal Register
Vol. 47, No. 178
Tuesday, September 14, 1982

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 220]

Food Stamp Program; Adjusting the Thrifty Food Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Stamp Program is changing the amount of food stamps which eligible households receive. The change, required by law, takes into account changes in the cost of living. The Program is also changing the way it calculates a household's food stamps. The net effect of these changes increases the food purchasing power of food stamp recipients. However, the increase is smaller than the one previously scheduled, because of the legislative change.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756-3429. Copies of the Regulatory Impact Analysis, which is summarized in this preamble, are also available from Mr. O'Connor.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512-1. The Department considers it a major rule because it will increase the Food Stamp Program's cost by more than $100 million. It will not result in a major increase in costs or prices, nor will it affect competition, productivity, employment, investment, or innovation.

Regulatory Flexibility Act. Samuel J. Cornelius, the Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The final rule will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect will not be significant.

Paperwork Reduction Act. This regulation does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Publication. The Department is making this rule effective in fewer than thirty days after publication because Section 3(o) of the Food Stamp Act of 1977, as amended, requires that the rule take effect on October 1, 1982.

Final rule. The Department is publishing this as a final rule, without opportunity for public comment. Section 3(o) of the Food Stamp Act of 1977, as amended, does not give the Department any discretion in making this change. Thus, the Department has determined that notice and comment rulemaking procedures on this final rule are unnecessary and contrary to public interest.

Memorandum of Law. Pursuant to section 4(c) of Executive Order 12291, the Department has determined that this rule is within the authority delegated by law.

Regulatory Impact Analysis

Need for Action. This action is required by Section 3(o) of the Food Stamp Act of 1977, as amended. The Department is publishing this as a final rule, effective in fewer than thirty days, because the Food Stamp Act specifies three things. First, it requires that the change be based upon economic figures as of June 30, 1982, reduced by 1%. The Department did not obtain these figures until the end of July. Second, the Act requires that the adjustment be calculated in a particular way; the Department has no discretion, third, the Act requires that the Department make the change effective on October 1, 1982. In addition, Congress has only recently enacted legislation which requires the Department to make new changes in the calculation procedures by October 1, 1982.

Alternatives. The Food Stamp Act of 1977, as amended, gives the Department no alternatives to any portion of this action.

Benefits. This action increases the food purchasing power of food stamp recipients to keep up with the rising cost of food.

Costs. This action increases the cost of the Food Stamp Program by $1.152 billion in Fiscal Year 1983.

Background

Scheduled adjustment. Section 3(o) of the Food Stamp Act of 1977, as amended, requires the Department to adjust the Thrifty Food Plan on October 1, 1982. The Thrifty Food Plan is the diet required to maintain an adequate level of nutrition. It is the basis for the uniform allotments for all households. The adjustment takes into account changes in the cost of food. As the cost of food rises, the Thrifty Food Plan rises with it. The Department is amending 7 CFR 273.10, Appendix A, to make this change.

Period of adjustment. According to current regulations, the October 1, 1982 adjustment was to reflect changes in the cost of food between October 1, 1980 and June 30, 1982. However, Congress changed the method of calculating the change in the Omnibus Budget Reconciliation Act of 1982. According to the new law, the adjustment is based upon 99% of the Thrifty Food Plan for a four person household. Basing the October adjustment on 99% of the Thrifty Food Plan for the preceding June 30 is required for the 1983 and 1984 adjustments also. The Department is amending 7 CFR 273.10(e)(4)(ii) to make this change.

Rounding. The Omnibus Budget and Reconciliation Act of 1982 has made a change in the regulation's description of rounding when calculating a household's food stamp allotment. Currently, according to 7 CFR 273.10(e)(2)(ii)(A) the State agency computes 30 percent of a household's net income. The State agency then rounds the product down from 49 cents and up from 50 cents. Then the State agency subtracts the rounded product from the appropriate Thrifty Food Plan to obtain the household's monthly allotment.

The new law requires a new rounding procedure which is intended to reduce

the Program's cost. The Department is allowing the State agency to implement the new provision in either of two ways.

The first option is to multiply the household's net income by 30 percent and then round the product up if it has cents in it. The State agency would then subtract the rounded product from the Thrifty Food Plan to obtain the monthly allotment.

The second option is to multiply the household's net income by 30 percent and to leave the product unrounded. The State agency would subtract the unrounded product from the Thrifty Food Plan. The State agency would then round the difference, the household's allotment, down to the nearest lower dollar. The Department is amending 7 CFR 273.10(e)(2)(ii)(A) to make this change. This change does not affect rounding while calculating a household's net income

The new legislation also requires the Department to round figures down when calculating the basic Thrifty Food Plan amounts which appear in Appendix A. The guidelines for calculating these amounts do not appear in the Code of Federal Regulations. Therefore, no amendment is necessary.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food Stamps Grant programs-social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Fraud, Grant programs-social programs, Penalties, Records, Reporting requirements, Social Security, Students.

For the reasons set out in the preamble, the Department amends Parts 272 and 273 of Chapter II, Subtitle B, Title 7, *Code of Federal Regulations* as follows.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, paragraph (g)(43) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(43) State agencies shall implement Amendment No. 220 on October 1, 1982.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. § 273.10, paragraph (e)(2)(ii)(A) is revised, paragraph (e)(4)(ii) is revised, and Appendix A is revised. The revisions read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculation of net income and benefit levels.* * * *

(2) *Eligibility and benefits.* * * *

(ii)(A) Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:

(*1*) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or

(*2*) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down the nearest lower dollar.

* * * * *

(4) *Thrifty Food Plan* * * *

(ii) *Adjustment.*

(A) Effective October 1, 1982, the Thrifty Food Plan amounts shall be adjusted to the nearest lower dollar increment to reflect changes in the Consumer Price Index for All Urban Consumers for the cost of food during the twenty-one month period ending June 30, 1982, less one percent of the adjusted Thrifty Food Plan.

(B) Effective October 1, 1983, and October 1, 1984, the Thrifty Food Plan amounts shall be adjusted to the nearest lower dollar increment to reflect changes in the Consumer Price Index for All Urban Consumers for the cost of food during the twelve month period ending on the preceding June 30, less one percent of the adjusted Thrifty Food Plan.

(C) Effective October 1, 1985, and each October 1 thereafter, the Thrifty Food Plan amounts shall be adjusted to the nearest lower dollar increment to reflect changes in the Consumer Price Index for All Urban Consumers for the cost of food during the twelve month period ending on the preceding June 30.

* * * * *

Appendix A—Thrifty Food Plan 48 States and the District of Columbia, Alaska, Hawaii, Guam, and The Virgin Islands

Benefit determination. To determine the monthly allotment to be issued to households: Subtract 30 percent of the household's net monthly income from the Thrifty Food Plan amount shown below for that size household for the appropriate area involved, as set forth in § 273.10(e)(2)(ii). (All one- and two-person households shall receive a minimum monthly allotment of $10.00):

THRIFTY FOOD PLAN AMOUNTS—JUNE 1982, AS ADJUSTED

Household size	48 States and District of Columbia[1]	Alaska[2] and Guam[4]	Hawaii[3]	Virgin Islands[4]
1	75	109	106	96
2	139	200	194	176
3	199	287	278	252
4	253	365	353	320
5	300	433	419	380
6	360	520	503	456
7	398	575	556	504
8	455	657	636	576
Each additional member	+57	+82	+79	+72

[1] Adjusted to reflect the cost of food in June and adjusted for each household size in accordance with economies of scale.

[2] Adjusted to reflect cost of food in this State based on June food price data increased by 9.3% to account for higher food prices in cities and towns outside of Anchorage.

[3] Adjusted to reflect cost of food in this State based on June food price data.

[4] Adjusted to reflect cost of food in this area based on June food price data.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: September 9, 1982.

Mary Jarratt,

Assistant Secretary.

[FR Doc. 82-25250 Filed 9-13-82; 8:45 am]

BILLING CODE 3410-30-M

Farmers Home Administration

7 CFR Parts 1904 and 1944

Section 504 Rural Housing Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) redesignates and revises its regulations regarding Section 504 Rural Housing Loans and Grants. The action is taken to conform with general administrative restructuring of the Agency's regulations. The current regulation is a supplement to an existing FmHA regulation, and as such is inadequate to address the needs of making and servicing Section 504 loans and grants. The intended effect of this revision is to facilitate and improve the administration of service provided by the program by permitting the Section 504 program to be administered independently of the Agency's Section 502 program. Uniform standards of eligibility have been established, including maximum income limits, and docket processing requirements have

been strengthened to prevent program abuse.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy Monesson, Program Specialist, Farmers Home Administration, USDA, Room 5347, South Building, 14th and Independence Avenue, SW, Washington, DC 20250, telephone (202) 382-1474.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been designated nonmajor. This determination is based on the fact that there will be little, if any, increase in cost to the Government or to the borrowers affected by this instruction. The changes made will provide accountability of use of funds and assure the recipients of value received for monies spent, thereby preventing abuse of the program which has proven costly to the Government. This is accomplished by a requirement that builders submit detailed material specifications, and when not performing under a construction contract, to provide a dollar break-down for materials and labor for each major item of development. Inspection requirements have been strengthened and specific instruction provided for handling unused funds and for servicing improper loans and grants. This revision also provides specific criterion for determining eligibility by establishing a maximum income limit of $11,500 or 50 percent of median income as set forth in Exhibit C, Subpart A, Part 1944 of this Chapter, whichever is lower. This criterion is consistent with the basis used by the Agency to determine income eligibility for all of its housing loans.

The only alternative action considered was to make no change in the existing regulation, which is inadequate to administer the program effectively.

This regulation does not directly affect any FmHA programs or projects which are subject to A-95 clearinghouse review. The Catalog of Federal Domestic Assistance program affected is: 10.417, Very Low-Income Housing Repair Loans and Grants.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

On December 16, 1981, the FmHA published in the **Federal Register** (46 FR 61291) a proposed rule to amend Chapter XVIII, Title 7, in the Code of Federal Regulations by revising and redesignating Part 1904 Subpart G to a new Part 1944 Subpart J. That rule provided for a 60-day comment period through February 16, 1982. The final rule contains revisions to the proposed rule which reflect FmHA's consideration of the comments received as well as other information available to FmHA. The following is a discussion of the comments received and changes made.

§ 1944.451

This section has been changed to identify the recipients more clearly as persons who lack repayment ability to qualify for a Section 502 loan. A further clarification of the objective is made by stating that most health and safety hazards will be removed. The proposed regulation implied that all hazards would be removed.

§ 1944.453

A definition of "hazard" and "major hazard" has been added. The definition of "substandard" dwelling has been deleted because no further reference is made to that term in the regulation. An objection was made to the definition of adjusted income, requesting that the allowance of 5 percent and $300 be raised to reflect actual costs more closely. This definition remains unchanged. The figures are not meant to be representative of actual costs, but are simply a means of making an adjustment to gross income.

As a result of comments, and for consistency in the basis used by the Agency to determine income eligibility for all housing loans, very low income will be changed to $11,500 or 50 percent of median income, as set forth in Exhibit C of Part 1944-A of this Chapter, whichever is lower.

§ 1944.456

A requirement was added that all material and installations for potentially hazardous equipment or materials (i.e. woodburning stoves) meet Minimum Property Standards (MPS). Also added is a requirement that water and septic systems meet applicable FmHA procedures for Section 502 loans. Several comments were received concerning the conditions under which repairs will be made on mobile homes. As a result of these comments the restriction not to exceed Federal Mobile Home Safey and Construction Standards has been removed. Comments were also received requesting loans be made regardless of ownership of the mobile home site. The regulation remains unchanged in this respect. The Agency believes that the regulation as written addresses the intent of the law regarding its meaning of owner/occupant. Ownership of the underlying land is also important in administering, servicing, and securing loans made under this Section.

Comments were received asking that time required for owner/occupancy of a mobile home be specified. We have revised the regulation to require owner/occupancy for one (1) year before date of application.

Comments were received requesting that overhead costs for nonprofit organizations and packaging fees be included as a loan purpose. This request is not being implemented at this time. Nonprofit corporations, acting as contractors, may build overhead costs into the total contract price in the same manner as other contractors, therefore, the Agency does not believe it necessary to specify that item as a loan purpose.

As a result of comments, the requirement to "remove wheels" from a mobile home has been eliminated and a requirement for tie-down has been added. Comments were received requesting that solar water heaters be added as a loan purpose. This request is not being implemented at this time. The Agency does not believe the purchase of a solar water heater will remove a safety or health hazard.

A comment received recommended that the health hazards necessitating room additions be specified. The regulation remains unchanged in this regard. The judgment of the County Supervisor is considered competent to recognize conditions dire enough to warrant the addition of a room under this program.

One comment stated that the regulation as written creates a disincentive to bring the dwellings to MPS. The Agency believes the regulation as written accomplishes the objectives of the program; therefore, no change is made in this regard.

§ 1944.457

Comments were received asking that the total assistance figures be increased, and that the age requirement for grants be eliminated. These requirements are statutory, therefore not within the authorization of the Agency to change.

Comments were received concerning suggested restrictions against painting and installation of air conditioners. The language in the regulation as written

suggests that these items might be considered cosmetic, but it does not prohibit them. County Supervisors are required to document the hazard and the repairs necessary to remove that hazard. We believe the regulation as written allows latitude and judgment in determining what is cosmetic.

§ 1944.458

Citizenship has been expanded to conform to Subpart A of Part 1944 of this Chapter. Requests were made to remove the restriction that grazing permits be considered as ownership only for nonsecured loans. This request could not be accommodated in that the Government's interest cannot be adequately secured by a mortgage on a grazing permit. The words "land assignment" have been added to grazing permits as eligible evidence of ownership.

Some comments were received objecting to the Agency's use of 50 percent of "low" income as maximum for eligibility, and advocating use of 50 percent of median. The regulation has been changed to accommodate this request with the modification of an $11,500 maximum for very low income.

Comments were received suggesting that the limitations on personal resources were too restrictive. The Agency believes the regulation as written allows direction of the program to the most needy applicants. Therefore, no change has been made.

Some comments were received suggesting that "household budgets" be required for every applicant. This change has not been implemented. We believe sufficient guidelines have been provided to determine when a budget is needed to determine repayment ability.

§ 1944.461

Several comments were received suggesting that the Grant Agreement be more restrictive, and also bind the heirs. We believe the Grant Agreement as written addresses the concern of Congress that the grantee not realize a monetary gain directly due to receipt of the grant; therefore the Agreement was not made more restrictive. The Agency has, however, changed the language of the Agreement, binding the heirs and estate to the term of the Agreement. As a result of comments, a change has been made regarding the procedure necessary to obtain adequate security on a mobile home for loans in excess of $2,500.

§ 1944.463

The absolute requirement for bids has been removed in the interest of having a more workable program.

The requirements for inspections have been more clearly addressed.

§ 1944.467

A paragraph has been added to provide guidance to the County Supervisor regarding credit investigations.

§ 1944.469

The requirement to provide proper notification to applicants of the right to rescind in accordance with the Truth in Lending Act has been added.

Information Collection Requirements

Information collection requirements contained in this regulation (§§ 1944.463(a); 1944.467(d); 1944.458(a); 1944.461(b); and 1944.469(b)) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB #0575-0062.

List of Subjects in 7 CFR Part 1944

Administrative practice and procedure, Aged, Farm labor housing, Grant programs—Housing and community development, Handicapped, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Reporting requirements, Rural areas, Rural housing, Subsidies.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising and redesignating Subpart G of Part 1904 to a new Subpart J of Part 1944 and reads as follows:

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

§§ 1904.301 through 1904.313 [Revised and redesignated as Subpart J of Part 1944]

PART 1944—HOUSING

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

Sec.
1944.451 General.
1944.452 Nondiscrimination.
1944.453 Definitions.
1944.454–1944.455 [Reserved]
1944.456 Loan and grant purposes.
1944.457 Loan and grant restrictions.
1944.458 Eligibility requirements.
1944.459–1944.460 [Reserved]
1944.461 Security.
1944.462 Rates and terms.
1944.463 Technical services.
1944.464 Insurance requirements.
1944.465–1944.466 [Reserved]
1944.467 Processing applications.
1944.468 Loan or grant approval.
1944.469 Loan and/or grant closing.
1944.470–1944.471 [Reserved]
1944.472 Subsequent Section 504 loans and/or grants.
1944.473 Improper loans and/or grants.
1944.474–1944.500 [Reserved]
Exhibit A—Agreement—Section 504 Grant.
Exhibit B—Cost Estimate or Bid.

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart J—Section 504 Rural Housing Loans and Grants

§ 1944.451 General.

This subpart sets forth the policies and procedures and delegates authority for making initial and subsequent Rural Housing (RH) loans and/or grants to individuals under Section 504(a) of Title V of the Housing Act of 1949, as amended. The objective of the Farmers Home Administration (FmHA) in making Section 504 loans and grants is to assist very low income owner-occupants of single family dwellings in rural areas, who lack repayment ability to qualify for Section 502 loans, to repair or improve their dwellings. Those repairs will result in the removal of most health or safety hazards, thereby making the dwellings safer and more sanitary for the occupants, their families, and the community.

§ 1944.452 Nondiscrimination.

It is FmHA policy that assistance and services will not be denied to any person based on race, sex, national origin, color, religion, marital status, age, handicap (provided the applicant possesses the capacity to enter into a legally binding contract), receipt of income from public assistance, or because an applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. This policy complies with Regulation B issued under the Equal Credit Opportunity Act (ECOA).

§ 1944.453 Definitions.

(a) *Adjusted annual income.* Annual income as defined in paragraph (b) of this section, less 5 percent, and less an additional $300 for each dependent minor child (excluding the applicant, co-applicant, and any foster child) who is a member of the household.

(b) *Annual income.* Planned income to be received during the next 12 months by the applicant, co-applicant, and all other adults who are living or propose to live in the dwelling to be repaired.

(c) *Co-signer.* A party who joins in the execution of the promissory note to guarantee repayment by the borrower. The co-signer becomes jointly and severally liable to comply with the terms

of the note in the event of the borrower's default.

(d) *County Supervisor.* Includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office). For the areas of Alaska and the Western Pacific Territories, it also includes the Area Supervisor and Assistant Area Supervisor.

(e) *Elderly.* For the purposes of this subpart, the term "elderly" refers to a person 62 years of age or older.

(f) *Hazard.* A condition of the dwelling or dwelling site which may jeopardize the health or safety of the occupants of the dwelling and/or the members of the community.

(g) *Major hazard.* A condition of the dwelling or site so severe as to make the dwelling unfit for habitation.

(h) *Manufactured home.* A manufactured home means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files the certification required by the Secretary of Housing and Urban Development and complies with the standards established under Title VI of the Housing and Community Development Act of 1974, Pub. L. 93–383.

(i) *Mobile Home.* For the purpose of this instruction a mobile home is an older home commonly referred to as a "trailer," designed to be used as a dwelling but built prior to the enactment of Pub. L. 96–399 (October 8, 1980).

(j) *Owner.* For the purposes of this subpart, an owner is one who can meet the conditions of ownership in accordance with § 1944.458(a)(3) of this Subpart.

(k) *Rural area.* A determination of rural area will be in accordance with § 1944.10 of this chapter.

(l) *Very low income.* An adjusted annual income that does not exceed $11,500 or 50% of median income for each designated area as set forth in Exhibit C to Part 1944–A of this chapter, whichever is lower.

§§ 1944.454–1944.455 [Reserved]

§ 1944.456 Loan and grant purposes.

Section 504 loan and grant funds may be used only to pay costs for repairs and improvements which will result in removal of identified safety and/or health hazards. Dwellings repaired with Section 504 loan or grant funds need not be brought to MPS or FMHA thermal standards, nor must *all* of the existing hazards be removed provided the dwelling does not continue to have major health or safety hazards after the planned repairs are made. All work shall be in accordance with local codes and standards. When potentially hazardous equipment or materials (e.g. woodburning stoves) are being installed, all materials and installations shall be in accordance with applicable sections of the MPS. Section 504 funds may also be used to remove health and safety hazards from homes which, after removal of the hazard will meet MPS, provided the house as improved does not exceed the building requirements as outlined in § 1944.16 (a) and (b) of this chapter, and provided the applicant does not have adequate income to qualify for a Section 502 Rural Housing loan. Authorized loan and grant purposes include but are not limited to the following:

(a) Installation and/or repair of sanitary water and waste disposal systems, together with related plumbing and fixtures, which will meet local health department requirements. Water supply and sewage disposal systems should be determined acceptable in accordance with Subpart A of Part 1924 of this chapter and Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5). The requirements of Subpart A of Part 1924 of this chapter and Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5) may be waived by the State Director provided:

(1) The County Supervisor has determined that the identified health hazard is severe and that the requirements outlined in paragraph (a) of this section cannot be met, and

(2) The State Director agrees with the determination of the County Supervisor that the planned work is necessary and that the requirements of paragraph (a) of this section (other than local health department requirements) are impractical.

(b) Payment of reasonable connection fees for utilities (i.e., water, sewer, electricity or gas) which are required to be paid by the applicant and which cannot be paid from other funds.

(c) Energy conservation measures such as:

(1) Insulation; and

(2) Combination screen-storm windows and doors.

(d) Repair or replacement of the heating system including installing alternative systems such as woodburning stoves or space heaters, when appropriate.

(e) Electrical wiring.

(f) Repair of, or provision for, structural supports.

(g) Repair or replacement of the roof.

(h) Replacement of severely deteriorated siding.

(i) Payment of incidental expenses such as fees for credit reports, surveys, title clearance, loan closing, and architectural or other technical services.

(j) Necessary repairs to manufactured homes or mobile homes provided:

(1) The applicant owns the home and the site on which the home is situated and has occupied that home on that site for at least one year before application to FmHA.

(2) The manufactured home or mobile home is on a permanent foundation or will be put on a permanent foundation with Section 504 funds. A permanent foundation will be either:

(i) A full below-grade foundation, or

(ii) Placing the home on blocks, piers, or some similar type foundation, with skirting, and anchoring with tie-downs.

(3) The manufactured home or mobile home is in need of repairs to remove health or safety hazards.

(k) Additions to any dwelling (conventional, manufactured or mobile) only when it is clearly necessary to remove health hazards to the occupants.

§ 1944.457 Loan and grant restrictions.

(a) *Maximum loan and/or grant.* (1) Lifetime assistance to any individual for initial and/or subsequent Section 504 loans or combination loans and grants may not exceed a cumulative total of $7,500, the grant portion of which may not exceed $5,000.

(2) Lifetime assistance to any individual for initial and/or subsequent Section 504 grants may not exceed a cumulative total of $5,000.

(3) Transferees assuming Section 504 loans are limited in the same manner to subsequent loans in amounts not to exceed the difference between the unpaid principal balance of the debt assumed and $7,500.

(4) The amount of assistance provided each borrower/grantee will be documented on the list of Section 504 recipients, which is retained in the County Office Operational file, according to § 2033.13 of FmHA

Instruction 2033–A (available in any FmHA office).

(b) *Limitation on use of funds.* Section 504 loan or grant funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Make changes to the dwelling for cosmetic or convenience purposes, unless the work is directly related to the removal of hazards. Cosmetic and convenience changes might include, but are not limited to:

(i) Painting;

(ii) Paneling;

(iii) Carpeting;

(iv) Improving clothes closets or shelving;

(v) Improving kitchen cabinets;

(vi) Air conditioning; or

(vii) Landscape plantings.

(3) Make repairs to a dwelling of such poor condition that when the repairs are completed, the dwelling will continue to be a major hazard to the safety and health of the occupants.

(4) Move a mobile or manufactured home from one site to another.

(5) Pay fees, charges or commissions for packaging the application, or placement fees for the referrals of prospective applicants to FmHA.

(6) Pay for any off-site improvements.

(7) Refinance any debt or obligation of the borrower/grantee other than obligations incurred for items covered by § 1944.456 entered into after date of application.

§ 1944.458 Eligibility requirements.

(a) *Section 504 loan.* Section 504 loan applicants must meet the following requirements:

(1) *Citizenship.* Be a natural person (individual) who resides as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, or a noncitizen who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole as set forth in § 1944.9(c) of this chapter.

(2) *Legal capacity.* The applicant must possess legal capacity to incur the loan obligation, and have reached the age of legal majority in the State or have had the disability of minority removed by court action.

(3) *Owner/occupancy.* The applicant must be the owner-occupant, at least one year prior to the time of application, of a single family dwelling that is located in a rural area and is in need of repairs. Each applicant is required to submit evidence of ownership for retention in the loan docket. This evidence may be the original or a certified or photostatic copy of the instrument evidencing ownership. County Supervisors may require additional information from the applicant, or may seek advice of the Regional Attorney when necessary to determine the validity or adequacy of the evidence of ownership. Proof of ownership need not meet the requirements of Part 1807 of this chapter (FmHA Instruction 427.1).

(i) The following will represent ownership:

(A) Full marketable title.

(B) A land purchase contract.

(C) An undivided interest in the property to be repaired. Loans and/or grants may be made to persons having an undivided ownership interest in a property when:

(*1*) The applicant has been living in the house for at least 10 years prior to the date of application.

(*2*) The County Supervisor has no reason to believe the applicant's position of owner-occupant will be jeopardized as a result of the improvements to be made with loan/grant funds.

(*3*) In the case of a loan to be secured by a mortgage, any co-owner living or planning to live in the household will sign the mortgage.

(D) A leasehold interest in the property to be repaired. When the applicant's "ownership" interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the file. The unexpired portion of the lease must not be less than 1½ times the term of the promissory note, or in the case of a grant, a period of not less than 10 years.

(E) A life estate, with the right of present possession, control, and beneficial use of the property.

(F) Grazing permits or land assignments. Grazing permits or land assignments may be accepted as evidence of ownership only for nonsecured loans or grants made to Indians living on a reservation, when historically the permits have been used by the Tribe and have had the comparable effect of a life estate.

(ii) The following items may be accepted as evidence of ownership:

(A) Any instrument whether or not recorded, which is commonly considered evidence of ownership.

(B) Evidence that the applicant is listed as the owner of the property by the local taxing authority and that real estate taxes for the property are paid by the applicant.

(C) Affidavits by others in the community that the applicant has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

(4) *Income.* The applicant must have an adjusted income less than that needed by a typical applicant in the area to repay a Section 502 loan with interest credit, but not exceeding $11,500 or the amount set forth as very low income in Exhibit C to Part 1944, Subpart A of this chapter, whichever is lower.

(i) *Income excluded.* The following income will not be included in determining annual adjusted income although it will be included for documenting and determining repayment ability:

(A) Income received by a full-time student (*who is not* the applicant or co-applicant) from employment, from GI Bill benefits, fellowships, scholarships, or assistantships for schooling.

(B) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(C) Payment received for the care of foster children or foster adults.

(D) Payments received for services rendered as a volunteer on a project sponsored by any of the following programs:

(*1*) Retired Senior Volunteer Program.

(*2*) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aide or senior companion).

(*3*) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons with Business Experience.

(*4*) Peace Corps, VISTA, or any other volunteer program sponsored by ACTION.

(E) Allowances, such as training and travel expenses, paid by the Department of Labor to CETA participants. (Wages paid by the employers of CETA workers will be included.)

(F) Any payments received by "live-in" aides for members of a senior citizen or handicapped applicant's household, paid by State or Federal programs which specifically exclude the cost of shelter from the amount received.

(ii) *Deductions.* The following deductions are allowed in determining the applicant's annual adjusted income:

(A) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. The

schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(B) A deduction may be made in the same manner as outlined in IRS regulations for necessary work-related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving official, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(*1*) Transportation to and from work.

(*2*) Cost of meals incurred on one-day business trips.

(*3*) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(*4*) Fines and penalties for violation of laws.

(C) A maximum aggregate deduction of $400 per month may be made for child care or disabled dependent care which is necessary to enable the applicant to be gainfully employed. The deduction will be based only on monies actually paid for care services. Payments for these services may not be made to persons whom the applicant is entitled to claim as dependents for income tax purposes. Full justification for the deduction must be recorded in detail in the applicant's loan docket.

(D) A maximum aggregate deduction of $400 per month may be made for full-time nursing home or institutional type care which cannot be provided in the home for a member of the household. This care must be expected to be required for a period of six months or more. The deduction will be limited to expenditures actually paid for these services.

(5) *Credit history/credit worthiness.* The applicant must have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due. When making Section 504 loans, credit worthiness will be established in accordance with § 1910.5(c) of this chapter, except general credit requirements for Section 504 assistance will be less stringent than those for Section 502 loans. Very low-income applicants often have higher short-term debt loads in relation to income than persons with higher incomes. A court judgment against the applicant, in and of itself, will not be a deterrent to making a loan but will be considered the same as any other debt. If, in the opinion of the County Supervisor, a court judgment is likely to be executed upon soon after the Section 504 repairs are made, the applicant may be refused assistance based on credit record.

(6) *Other resources.* The applicant must be unable to obtain the needed credit from other sources including a Section 502 Rural Housing loan, or be able to have the safety and health hazards removed by using grants from other sources. There is no net worth limitation when making Section 504 loans and grants except when the net worth reflects the availability of sufficient resources to make the repairs without Section 504 assistance.

(7) *Personal resources.* The applicant must be unable to remove the safety or health hazards by utilizing personal resources such as:

(i) Cash and other assets such as stocks, bonds, certificates of deposit, etc. Small cash reserves not to exceed $2,500 will be permitted as a buffer for emergency situations.

(ii) Real estate assets, other than dwelling and minimum dwelling site. Exceptions may be granted by the State Director when those assets provide a major source of income essential to pay basic living expenses.

(8) *Repayment ability.* The applicant must have sufficient income to repay the Section 504 loan. An applicant whose income is not sufficient to fully meet the loan payments may obtain as a co-signer(s) a person(s) with dependably available income which will be sufficient to repay the loan. The co-signer must be an individual but may not be a member of the applicant's household. Form FmHA 431-3, "Family Budget," will be prepared for Section 504 applicants to the extent necessary to determine repayment ability, and where it appears the applicant needs credit counseling. In all cases involving a Section 504 grant, Form FmHA 431-3 will be completed before approval to determine repayment ability, and as a basis for determining how much, if any, of the assistance can be repaid as a loan. The budget must evidence the applicant's inability to repay that part of the assistance to be received as a grant.

(b) *Combination Section 504 loan and grant.* In addition to the requirements of paragraph (a) of this section, to be eligible for a combination Section 504 loan and grant the applicant or co-applicant must meet the following requirements:

(1) Be 62 years of age or older, and

(2) Have an annual income so low that only part of the total cost of the needed repairs or improvements can be repaid as a Section 504 loan amortized over the maximum number of years.

(c) *Section 504 grant only.* In addition to the requirements of paragraphs (a) and (b) of this section, to be eligible for a grant only, the applicant must:

(1) Be 62 years of age or older, and

(2) Have an annual income so low that no part of the total assistance needed can be repaid as a loan.

§§ 1944.459–1944.460 [Reserved]

§ 1944.461 Security.

(a) *Real estate mortgage.* A Section 504 loan which totals $2,500 or more will be secured by a mortgage on the borrower's property being improved with the loan or, in the case of possessory rights on an Indian reservation or State-owned land, adequate security in the form of mortgage insurance will be obtained according to § 1944.18(b)(2) of this chapter. The total of all debts secured by the property may not exceed the value of the security property.

(1) *Undivided ownership interest.* Security on an undivided ownership interest may exclude mortgaging the co-owners' interests when:

(i) One or more of the co-owners are not legally competent, cannot be located, or the ownership rights are divided among such a large number of co-owners that it is not practical for all interests to be mortgaged.

(ii) The interests excluded do not represent more than 50 percent of all ownership interests.

(iii) All legally competent co-owners using or occupying the dwelling sign the mortgage.

(iv) Co-owners are required to sign the note when necessary to make a sound loan or to obtain adequate security.

(v) The loan does not exceed the percentage of market value of the property represented by the interests of the owners who sign the mortgage.

(2) *Life estates.* Security on a life estate ownership interest may exclude mortgaging the remaindermen's interests when:

(i) One or more of the remaindermen are not legally competent, cannot be located, or the remainder rights are divided among such a large number of remaindermen that it is not practical to obtain the signatures of all remaindermen.

(ii) The interests excluded do not represent more than 50 percent of all remainder interests.

(iii) All legally competent remaindermen using or occupying the dwelling sign the mortgage.

(iv) Remaindermen are required to sign the note when necessary to make a sound loan.

(v) The loan does not exceed the percentage of market value of the property represented by the interests of the remaindermen who sign the mortgage.

(3) *Mobile homes.* State Directors will, after obtaining the assistance of the Regional Attorney, issue a State Supplement outlining the procedure necessary to obtain adequate security when making a loan of more than $2,500 on a property which includes a mobile home or a manufactured home.

(b) *Promissory note.* Normally a loan of less than $2,500 will be a note-only loan. A loan of less than $2,500 will be secured by real estate if the County Supervisor determines security is essential to assure repayment of the loan.

(c) *Grant agreement.* (1) Each person receiving a grant will be required to sign a grant agreement (see Exhibit A of this subpart) which states that the grantee will not sell the property which has been repaired or improved with FmHA grant funds, for a period of three years. The agreement will provide that, if the property is sold by the grantee or the grantee's heirs or estate before the end of the three-year period, the full amount of the grant will be repaid to the Government.

(2) Each County Supervisor will take steps, to the extent possible and practical, to protect the Government's interest and promote FmHA's recovery of grant funds in the event the property is sold before the expiration of the three-year period referred to in paragraph (c)(1) of this section.

§ 1944.462 Rates and terms.

(a) The interest rate for all Section 504 loans is one (1) percent per annum.

(b) The term of each loan will be established after determining the amount of the loan and the borrower's repayment ability and by using amortization tables. The maximum term will not exceed 20 years. Loans made in combination with a grant will always be amortized for 20 years in order to maximize the affordable loan amount and minimize the amount necessary as a grant.

§ 1944.463 Technical services.

(a) *Planning and performing development work.* Estimates of costs or contract prices prepared by builders or repairmen will be based on the list of essential repairs prepared by the County Supervisor at the time of the initial and any subsequent visit. Each docket for borrower-method construction will contain written cost estimates, showing specifications of materials and complete cost breakdown for materials and labor for each item of development. Exhibit B of this Subpart or any similar businesslike format will be used for submission of bids or written cost estimates. Dockets prepared for construction by contract will contain Form FmHA 424-6, "Construction Contract," and Form FmHA 424-2, "Description of Materials." Form FmHA 424-19, "Builder's Warranty," will be required only when the work to be completed involves new construction such as a room addition. Bids or additional cost estimates may be required at the discretion of the County Supervisor.

(1) Specifications of materials should include details such as quantity, quality, sizes, grades, styles, model numbers, etc., as appropriate. Each item must be specific enough to clearly identify the work and material to be furnished. No Section 504 loan or grant will be approved until this requirement is satisfied.

(2) Contractors, builders and repairmen must be competent to perform the specified development work. If the County Supervisor is unfamiliar with the work of the selected contractor/repairman, the contractor will provide a list of names and addresses for recently completed development work. The County Supervisor will then contact the referenced homeowners regarding their satisfaction with the job, and whenever possible, the County Supervisor will make an on-site inspection of the work.

(b) *Development plans.* Form FmHA 424-1, "Development Plan," will be prepared by the County Supervisor according to § 1924.5(b) of this chapter.

(c) *Inspections.* In addition to the initial inspection, inspections of work in place will be made as follows:

(1) On new construction such as room additions, inspections will be made in full compliance with the provisions of § 1924.9 of this chapter.

(2) A final inspection will be made before issuing any payment on individual major items of development.

(3) A final inspection will be made on all Section 504 loan and grant development work before payment in full.

(4) All inspections of work in place will be recorded on Form FmHA 424-12, "Inspection Report".

(d) *Appraisal.* An appraisal of the real estate or leasehold interest is required if the County Supervisor or loan approval official is uncertain of the adequacy of the security for the loan. If an appraisal is not made, the County Supervisor will document the estimated market value of the property in the case file.

(e) *Title requirements.* Loans made under this Subpart secured with a real estate mortgage need not meet the title requirements of Part 1807 of this chapter (FmHA Instruction 427.1). Section 504 applicants should not be burdened with expensive lien search and other loan closing costs, however, the County Supervisor will use all practical means to verify that title and lien information furnished by the applicant is complete and accurate. In most cases, this can be accomplished by a personal search of courthouse records by the County Supervisor. Cases disclosing complex title problems may be referred to a designated attorney if necessary to assure FmHA's security position.

§ 1944.464 Insurance requirements.

(a) *National flood insurance.* All actions under this subpart are considered nonsubstantial improvements under the National Flood Insurance Program, and therefore flood insurance is not required.

(b) *Real property insurance.* Each Section 504 applicant will be counseled and encouraged to have adequate hazard insurance, and flood insurance if available, even though insurance coverage is not required for an unsecured loan.

§§1944.465-1944.466 [Reserved]

§ 1944.467 Processing applications.

(a) *Application form.* Application for Section 504 loans and grants will be made on Form FmHA 410-4, "Application for Rural Housing Loans (Non-Farm Tract)."

(b) *Family budget form.* (1) Form FmHA 431-3, "Family Budget," will be prepared for each grant recipient. Family budgets will also be prepared for each loan applicant when:

(i) Form FmHA 410-4 does not provide sufficient information to determine the applicant's repayment ability.

(ii) The applicant needs credit counseling.

(2) The budget will consider and account for items such as:

(i) Non-cash benefits (food stamps, scholarships, free clothing, meals on wheels, free transportation, etc.) which help reduce the applicant's budgeted expenses. Receipt of benefits will be properly documented, and the appropriate budgeted expenses will be reduced to reflect these benefits.

(ii) Income from sources not used to determine adjusted income such as earnings from employment of minors or from a full-time student, who is neither the applicant nor spouse, foster care payments, or any similar income. These sources of income will be considered to the extent that they are used to offset

budgeted expenses even though not included in "annual income."

(c) *Credit investigation.* From FmHA 410-8 "Applicant Reference Letter," will be used for all applicants when it is believed by the County Supervisor that sufficient information can be obtained by use of Form FmHA 410-8 to establish the applicant's credit history and credit worthiness. Credit reports may be ordered at the discretion of the County Supervisor for loan applicants. Credit reports will not be ordered in connection with the processing of Section 504 grants.

(d) *Verification of income.* Income from employment will be verified by use of Form FmHA 410-5, "Request for Verification of Employment." Income from Social Security (SS), Supplemental Security Income (SSI), welfare, pension and other similar sources will be verified by the most convenient method for reasonable accuracy.

(e) *Cost estimates.* Written cost estimates will be required as outlined in § 1944.463 for all work to be performed. If, in the judgment of the County Supervisor the cost estimate is not competitive, additional cost estimates will be obtained. All cost estimates will be prepared and submitted according to § 1944.463(a)

(f) *Use of packagers.* Non-profit groups, churches, civic organizations, Community Action Programs (CAP) or other special interest organizations may be interested in packaging Section 504 loan and grant applications. Each County Supervisor should actively seek the assistance of these organizations and provide adequate orientation, including information on the provisions of the Equal Credit Opportunity Act regarding receipt of applications, so that their personnel will be able to submit an accurate and complete package and be able to carry out the objectives and intent of the Section 504 program.

(g) *County Supervisor's responsibility.* For all applications, including those packaged by approved organizations, the County Supervisor must:

(1) Visit the applicant's home before loan or grant approval to indentify the existing hazards and determine what repairs are essential to remove health or safety hazards. This initial site visit will be documented in the running case record together with the identification of the hazards and a list of the essential repairs.

(2) Make the final inspection of the work in place.

(3) Assure that *all* monies are disbursed according to Subpart A of Part 1902 of this chapter and § 1944.469 (d).

(h) *Determination of eligibility.* The County Supervisor will determine eligibility for all Section 504 loan and grant applications based on the criteria outlined in § 1944.458.

(i) *Notification.* Notification of eligibilty will be given all applicants according to § 1910.6 of this chapter.

(1) Applicants denied the requested assistance will be provided the right to appeal according to Subpart B of Part 1900 of this chapter.

(2) The statement required by the Equal Credit Opportunity Act (see § 1910.6 (b) of this chapter) will be included in all notifications of adverse actions.

§ 1944.468 Loan or grant approval.

(a) A Section 504 loan or grant may be approved according to the authorization of Subpart A of Part 1901 of this chapter.

(b) The loan/grant approving official is responsible for reviewing the docket to determine that the proposed loan or grant complies with established policies and all pertinent regulations and that funds are available.

(c) When a loan is approved, the approval official will forward the following forms to the Finance Office:

(1) Form FmHA 1940-1, "Request for Obligation of Funds."

(2) Form FmHA 444-2, "Single Family Housing Fund Analysis."

(d) When a grant only is approved only Form FmHA 1940-1 will be forwarded to the Finance Office.

§ 1944.469 Loan and/or grant closing.

Each Section 504 loan and grant will be closed by the County Supervisor or other delegated closing official.

(a) *Effective date of loan or grant closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases, the loan and/or grant is considered closed when the borrower/grantee executes the note and any other required instrument (including the grant agreement by grantee).

(b) *Promissory note.* Form FmHA 440-16, "Promissory Note," will be used for each loan made under this Subpart. The note will be prepared and signed according to Part 1807 of this chapter (FmHA Instruction 427.1) and § 1944.458(a)(8) concerning co-signers. Each promissory note will be prepared for monthly payment.

(c) *Grant agreement.* A grant agreement will be executed for each grant made under this Subpart. Exhibit A of this Subpart will be used as the format for preparation and execution of the grant agreement. It will be prepared in the original and one copy. The original signed document will be retained in position 2 of the County Office case file, and a copy provided to the grantee.

(d) *Mortgage.* Form FmHA 427-1, "Real Estate Mortgage for (State)," will be used for each loan to be secured by a real estate mortgage. Each change made in the text by deletion, substitution or addition (excluding filling in the blanks) will be initialed in the margin by each person signing the mortgage and by the FmHA official making the change. Mortgages for loans on leasehold interests will be taken according to § 1944.18(a)(5) and § 1944.15(a)(5)(iv) and (v) of this chapter. Form FmHA 440-43, "Notice of Right to Rescind," on 504 loans secured by a real estate morgage will be given at closing to all entitled individuals according to § 1901.401(d)(3) of this chapter.

(e) *Supervised bank accounts.* A supervised bank account will be established in accordance with Part 1902, Subpart A of this chapter and will be used for each Section 504 loan and/or grant unless the entire proceeds will be disbursed to a supplier or contractor at closing. The use of funds from other sources, which are deposited in a supervised bank account, will be accounted for by using columns 5 through 14 of Form FmHA 402-2, "Statement of Deposits and Withdrawals."

(f) *Disbursement of funds.* The proceeds of a 504 loan secured by a real estate mortgage may not be disbursed until the right to rescind has expired.

(1) Section 504 loan/grant funds may be disbursed:

(i) Upon completion of all planned work which has been inspected by the County Supervisor and accepted by the borrower/grantee as evidenced by a completed and executed Form FmHA 424-12, "Inspection Report," showing 100% completion of all work.

(ii) Upon 100% completion of any major item of development which has been inspected by the County Supervisor and accepted by the borrower/grantee as evidenced by a completed and executed Form FmHA 424-12 showing 100% completion of a major individual item of development.

(iii) Upon presentation of an invoice from a seller to pay for materials, equipment, or labor according to § 1924.6(b)(3) of this chapter.

(2) Funds deposited in supervised bank accounts will be disbursed in the following order of priority:

(i) Applicant contribution;

(ii) Funds from source other than FmHA;

(iii) FmHA Section 504 loan funds; and

(iv) FmHA Section 504 grant funds.

(g) *Unused funds.* Unused Section 504 funds will be handled as follows:

(1) *Development work completed.* When all planned development has been satisfactorily completed, unused funds may be:

(i) Used to remove additional health and/or safety hazards if:

(A) The hazard is properly identified and documented by the County Supervisor, and

(B) The Development Plan is revised and updated to reflect the additional item(s) of development, and costs of labor and materials.

(ii) Returned to FmHA:

(A) Any funds returned shall first be applied to reducing a grant. When returning grant funds to the Finance Office, the collecting office will enter payment code 21 (other) on Form FmHA 451-2, "Schedule of Remittances," with a brief explanation ("Recovery of Section 504 Housing Repairs Grants") and forward with check to the Finance Office.

(B) If no grant was made or the amount of any grant has already been returned, then remaining funds shall be returned to the Finance Office and applied to the borrower's loan account as a refund.

(iii) Used to pay contractor when borrower or grantee dies before money is disbursed, under the following conditions:

(A) Loans. Loan funds will always be returned to the Finance Office and applied to the borrower's account unless:

(*1*) Borrower executed Form FmHA 424-12, and

(*2*) Borrower signed the final check from the supervised bank account to the contractor, or

(*3*) In the case of loans secured by a real estate mortgage, the State Director may withdraw funds to pay commitments for goods delivered or services performed, according to § 1902.15(d)(1)(iii) of this chapter.

(B) Grants. Grant funds will be returned to the Finance Office unless:

(*1*) There is substantial evidence that the grantee has verbally or otherwise accepted the work as complete and satisfactory, and

(*2*) The work was inspected and determined complete and satisfactory to the County Supervisor.

(C) Combination loan/grant funds will be treated separately, according to paragraph (g)(iii) (A) and (B) of this section.

(2) *Development work not completed.* Funds will be returned to the Finance Office when:

(i) It appears likely that the contractor is unable or unwilling to complete the planned work and the borrower/grantee with the assistance of the County Supervisor has been unsuccessful in efforts to obtain other contractors, or

(ii) The purpose of the loan or grant cannot be accomplished due to the death of the borrower or grantee or because the borrower or grantee no longer resides in the dwelling to be repaired.

§§ 1944.470–1944.471 [Reserved]

§ 1944.472 Subsequent Section 504 loans and/or grants.

Subsequent Section 504 loans or grants may be made for the same purposes and under the same conditions and limitations as initial Section 504 loans and grants including requirements that:

(a) The total amount of loan or combination loan and grant assistance (initial and subsequent) to any applicant may not exceed $7,500.

(b) The total amount of grant (initial and subsequent) to any applicant may not exceed $5,000.

(c) The unpaid principal balance at the time of transfer of a Section 504 loan will be included as part of the total loan and/or grant assistance available to the transferee, according to paragraphs (a) and (b) of this section.

(d) Subsequent loans will be secured by a mortgage when the subsequent loan plus any outstanding loan balance is $2,500 or more. When a real estate mortgage is required, each outstanding promissory note will be described in the mortgage.

§ 1944.473 Improper loans and/or grants.

(a) Servicing action will be taken as soon as knowledge is obtained that incorrect information has been provided by a borrower or grantee or by any other person, or that an error has been made by a County Supervisor or any other FmHA employee. A Section 504 loan or grant will be considered improper when:

(1) A person has received more than the statutory maximum loan and/or grant.

(2) Monies were disbursed for unauthorized purposes.

(3) A loan or grant was made to an ineligible applicant.

(b) Improperly advanced loan or grant funds may be recovered by:

(1) Lump sum payment.

(2) Execution of Form FmHA 451-37, "Additional Partial Payment Agreement."

(c) When paragraphs (b) (1) and (2) of this section are impractical because of lack of repayment ability, the County Supervisor will seek the assistance of the State Office to obtain the advice of the Regional Attorney as to how to recover the improperly disbursed funds. Consideration should be given to:

(1) Securing the debt with the best mortgage obtainable from the borrower.

(2) Obtaining a mortgage without personal liability of the grantee (in cases where grant only is involved). The mortgage would be due:

(i) Upon sale of the property by grantee,

(ii) Upon foreclosure by other creditors,

(iii) When the property is abandoned or is otherwise vacated by the grantee, or

(iv) Upon death of the grantee.

(3) Obtaining a judgment of record. If the borrower or grantee refuses to sign a mortgage, the Regional Attorney may be requested to cause a lawsuit to be commenced against the borrower or grantee to recover the improperly disbursed funds. Any judgment entered in such a lawsuit would be reviewed periodically to comply with State statutes. If the borrower or grantee did not obtain the loan or grant fraudulently, the judgment will be executed only:

(i) Upon the sale of the property by the owner,

(ii) Upon foreclosure by other creditors,

(iii) Upon property settlement in the event of the owner's death, or

(iv) Upon abandonment of the property by the borrower or grantee.

§§ 1944.474–1944.500 [Reserved]

Agreement—Section 504 Grant

I (we) the undersigned, hereby agree not to sell the property located at ——— being repaired with grant funds provided by the Farmers Home Administration for a period of three years from the date of this agreement. Should I (we) sell the above-described property within three years, I (we) agree to repay to the Farmers Home Administration, at the time of the sale, the full amount of the grant, which is $——. I further agree that if within three years from the date of this agreement the property is sold by either my estate or my heirs, the person or estate selling the property will repay the grant to FmHA.

(Grantee) ———

(Grantee) ———

(Date) ———

(Representative, Farmers Home Administration)

(Date) ———

Cost Estimate or Bid

(Home owner) ———

(Address) ———

(Contract or bidder) ———

(Address) ———

Development	Material specification	Material (dollars)	Labor (dollars)
Subtotals		$	$
Totals		$	$

Date: _____

(Contractor Bidder/Signature) _____

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 4, 1982.

Ruth A. Reister,

Acting Under Secretary for Small Community and Rural Development, Farmers Home Administration.

[FR Doc. 82-25159 Filed 9-13-82; 8:45 am]

BILLING CODE 3410-07-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Exemption of Prednisone Tablets From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission exempts prednisone in tablet form when dispensed in packages containing no more than 105 milligrams of that drug from requirements for child-protection packaging. Information available to the Commission indicates that child-protection packaging is not required to protect children who may ingest the drug in quantities of 105 milligrams or less because of the low toxicity of prednisone and the lack of adverse human experience associated with that drug.

DATE: The exemption is effective September 14, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Jacobson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (301) 492-6400.

SUPPLEMENTARY INFORMATION: Regulations issued under provisions of the Poison Prevention Packaging Act (PPPA, 15 U.S.C. 1471 *et seq.*) require the use of child-resistant packaging for prescription drugs intended for oral administration (16 CFR 1700.14(a)(10)). On May 29, 1981, the Commission received a petition (PP 81-1) from Mayrand Pharmaceuticals, Inc., Greensboro, North Carolina, requesting an exemption from child-resistant packaging requirements for a product manufactured by that firm containing prednisone. That product is the Sterapred Uni Pak, which consists of a polystyrene package containing 21 individually packaged 5 mg prednisone tablets. Prednisone is a steroid used for its potent anti-inflammatory effects in disorders of many organ systems.

The petition alleged that an exemption for prednisone in tablet form when dispensed in amounts of 105 mg or less is justified because of the low toxicity of the drug, and because of the lack of adverse human experience data associated with accidental ingestions of this drug. The petition stated oral LD 50 values are not presently available for prednisone. The petition also stated that on the basis of well-established comparative pharmacologic activity, 105 mg of prednisone is the equivalent of 84 mg of methylprednisolone. The Commission has issued an exemption from special packaging requirements for packages containing not more than 84 mg of methylprednisolone (16 CFR 1700.14(a)(10)(xiv)).

Proposed Exemption

In the **Federal Register** of March 10, 1982 (47 FR 10235), the Commission proposed an amendment to 16 CFR 1700.14(a)(10) to exempt prednisone in tablet form dispensed in packages containing no more than 105 mg prednisone from requirements for child-resistant packaging. The Commission proposed this amendment because of the low toxicity of prednisone; the lack of adverse human experience associated with that drug; and recommendations from the Technical Advisory Committee on the Poison Prevention Packaging Act and the Food and Drug Administration.

In the notice of March 10, 1982, the Commission published a detailed explanation of the reasons for proposing the exemption. The following reasons were given in support of the proposal.

1. *Low toxicity of prednisone.* The Commission finds that glucocorticoids, such as prednisone, are virtually nontoxic even in very large acute dosages. The toxic effects of those drugs are entirely associated with long-term therapy. It is almost impossible to administer sufficient drug to test animals to arrive at an LD 50 dose and thus such values are not generally reported in the literature. However, prednisolone, a synthetic glucocorticoid which is pharmacologically equivalent to prednisone, failed to produce any deaths in mice when given in oral doses of up to 5 gm./kg. Methylporednisolone, a synthetic glucocorticoid already exempted from special packaging requirements when dispensed in amounts of 84 mg. or less, was found to produce no deaths in rats when administered orally in doses of up to 12 gm./kg. Based on available pharmacological and toxicological data, the Commission believes that one could reasonably predict that the LD 50 for prednisone would be equivalent to its pharmacologic twin, prednisolone (i.e., greater than 5 gm./kg.). LD 50 values of this magnitude generally indicate negligible to slight acute toxicity.

2. *Lack of adverse human experience.* A review of data from the National Clearinghouse for Poison Control Centers (NCPCC) for the three-year period 1977-1979 indicates a total of 328 ingestions of oral glucocorticoid anti-inflammatory drugs by children under five (dosage form not specified). Fourteen of these were reported as exhibiting symptomatology such as nausea, vomiting, and lethargy. One case resulted in hospitalization; however, the individual was asymptomatic and was presumably held only for observation. Represented among this total number of ingestions are 124 involving prednisone. Five of these prednisone ingestions exhibited symptomatology similar to that described above; no child was reported hospitalized.

The Commission's Poison Control Center Contract Data Bases for 1976 and 1977 were also reviewed for ingestion data. Sixteen ingestions involving this class of drugs were reported in 1976; one involved symptoms such as nausea, vomiting and lethargy. There were no hospitalizations. Eleven of 16 cases were associated with prednisone. A total of 8 cases were reported in 1977 (one with symptoms; no hospitalization). Two of these 8 cases were associated with prednisone.

Information available from the National Electronic Injury Surveillance System shows that five incidents involving children under five years of age ingesting steroid based anti-inflammatory drugs were reported. Two involved prednisone. All children involved in these incidents were treated and released. Similarly, two reports of ingestion of similar products to the National Injury Information Clearinghouse indicate that both children were treated and released.

3. *Consultations.* The Commission solicited comments from its Technical Advisory Committee on Poison Prevention Packaging.[1] All nine

[1] This consultation occurred prior to the 1981 amendment to the Poison Prevention Packaging Act which abolished the Technical Advisory Committee. See Section 1205 of the Omnibus Reconciliation Act of 1981, Pub. L. 97-35, 95 Stat. 702, 753.

members who responded favored granting the exemption on the basis of low acute toxicity and the fact that similar steriod based prescription drugs have previously been granted exemptions from the special packaging requirements.

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. FDA recommended that the exemption be granted because of the lack of reported adverse human experience associated with accidental ingestion, the low acute oral toxicity of glucocorticoid drugs in general, and because the amount of prednisone for which the exemption was sought is far lower than the amount necessary to produce toxic effects. In support of the latter reason, the FDA noted that, because prednisone and methylprednisolone are bioequivalent, the moderate acute toxicity for the two drugs would be the same. Accordingly, on the basis of the LD 50 data available for methylprednisolone, FDA concurred with Mayrand's extrapolation (submitted in support of the petition for exemption) showing that over 1100 five mg. prednisone tablets would have to be ingested to produce toxic effects in a 10 kg. (22 lb.) child.

The notice of March 10, 1982, solicited comments from all interested parties on the proposed exemption.

Comment on Proposal

In response to the proposal, the Commission received one written comment from the Lupus Foundation of America, Inc.

This comment stated that persons suffering from Lupus are major users of prednisone tablets. (Lupus is a chronic inflamatory disorder of the connective tissue, due to abnormalities of the immune system. The disease is characterized by rashes, arthritis, anemia, and occasionally lung and brain involvement.) The comment stated that persons suffering from Lupus often have arthritis associated with that disease, and in those cases, use of child-resistant packaging is difficult.

The comment supported the proposed exemption in principle, but observed that because it is limited to packages containing not more than 105 mg prednisone, the exemption will not benefit Lupus patients, who ususally use prednisone in much larger quantities. According to this comment, a low average dose of prednisone for a Lupus patient is at least 10 mg a day.

The comment requested the Commission to broaden the proposed exemption to include packages containing as many as 100 tablets containing 5 mg prednisone, for a total of 500 mg prednisone per package. The comment claimed that such a modification of the proposal would benefit Lupus patients and persons suffering from arthritis and other diseases which require long-term prednisone therapy.

While the comment did not oppose granting the exemption, it stated that if issued as proposed, the exemption would not result in any economic benefit to persons suffering from Lupus, arthritis, or other condition for which long-term prednisone therapy is prescribed.

Response to Comment

After careful consideration of this comment, the Commission has decided by majority vote to issue the exemption as proposed in the notice of March 10, 1982.[2]

The Commission observes that while Lupus patients do make extensive use of prednisone, the drug is by no means limited to treatment of Lupus. Prednisone is widely used to treat other conditions which do not require long-term or permanent therapy.

Because prednisone in packages containing not more than 105 mg of that drug is used to treat these conditions, and because manufacturers are required to use child-resistant closures for such packages, the exemption issued below will have the effect of reducing costs for manufacturers and pharmacists, and may reduce costs to consumers.

The Commission observes that the proposal of March 10, 1982, was made in response to a petition requesting exemption specifically for prepackaged containers of 21 tablets containing 5 mg prednisone each. The Commission notes that the petition did not state that the exemption was intended to benefit Lupus patients.

Section 4(b) of the PPPA (15 U.S.C. 1473(b)) provides that in the case of a substance which is subject to requirements for child-resistant packaging and which is dispensed pursuant to a physician's prescription, the physician may order the use of non-complying packaging in the prescription, or the patient may request the pharmacist to fill the prescription in a noncomplying package. The Commission believes that these provisions of the PPPA adequately address the concern expressed in the comment for those patients who require larger amounts of prednisone tablets for long-term therapy and who may have difficulty using child-resistant packaging.

Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposal on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the proposal, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

In the notice of March 10, 1982, the Commission certified that the proposed rule, if issued on a final basis, would not have a significant economic impact on a substantial number of small businesses. In the notice of proposal, the Commission observed that the exemption, if issued on a final basis, would allow pharmacists dispensing prednisone in quantities not exceeding 105 mg per package the option of using noncomplying packaging, which is ususally less expensive than child-resistant packaging.

Environmental Considerations

The Commission's regulations governing environmental review procedures state at 16 CFR 1021.5(c)(3) that exemption of products from requirements for child-resistant packaging under the PPPA normally have little or no potential for affecting the human environment. The Commission does not foresee any special or unusual circumstances surrounding the exemption issued below. For this reason, neither an environmental assessment nor an environmental impact statement is required in this proceeding.

Conclusion

Having considered the requested exemption, information concerning the toxicity of prednisone, available human experience data, recommendations of the Technical Advisory Committee on the Poison Prevention Packaging Act and of the Food and Drug Administration, and the written comment received in response to the proposal of March 10, 1982, the Commission finds that special packaging is not required to protect children from serious personal injury or illness resulting from handling, using, or ingesting prednisone when dispensed in tablet form in packages containing not more than 105 mg of that drug.

[2] Four Commissioners voted to issue the exemption on a final basis. Commissioner Edith Barksdale Sloan abstained.

Effective Date

The Administrative Procedure Act provides at 5 U.S.C. 553(d) that a substantive rule must be published at least 30 days before its effective date, except in the case of a rule which grants an exemption. The rule issued below grants an exemption from requirements for child-resistant packaging which would otherwise be applicable to prednisone in tablet form dispensed in packages containing not more than 105 mg of that drug, and will be effective immediately.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Promulgation

PART 1700—POISON PREVENTION PACKAGING

Therefore, in accordance with sections 2, 3, and 5 of the Poison Prevention Packaging Act (Secs. 2, 3, 5, Pub. L. 91-601, 84 Stat. 1670-72, 15 U.S.C. 1471, 1472, 1474) and section 30(a) of the Consumer Product Safety Act (sec. 30(a) Pub. L. 92-573, 86 Stat. 1231, 15 U.S.C. 2079(a)), for the reasons set forth above, § 1700.14(a)(10) of Title 16 of the Code of Federal Regulations, is amended by adding a new subparagraph (x), as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * * (10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(x) prednisone in tablet form, when dispensed in packages containing no more than 105 mg. of the drug, and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

(Secs. 2, 3, 5, Pub. L. 91-601, 84 Stat. 1670-72, 15 U.S.C. 1471, 1472, 1474; sec. 30(a) Pub. L. 92-573, 86 Stat. 1231, 15 U.S.C. 2079(a))

Dated: September 8, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-25162 Filed 9-13-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 81F-0244]

Indirect Food Additive: Adjuvants, Production Aids and Sanitizers, Calcium Bis[Monoethyl (3,5-Di-Tert-Butyl-4-Hydroxybenzyl)Phosphonate]

Correction

In FR Doc. 82-18863, appearing on page 30241 in the issue for Tuesday, July 13, 1982, insert "(CAS Reg. No." between the fifth and sixth lines of the entry for "Substances" in the table in § 178.2010(b).

BILLING CODE 1505-01-M

---

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name for several nitrofuran-containing products and a buquinolate premix from Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., to Norwich Eaton Pharmaceuticals, Inc. Supplemental new animal drug applications (NADA's) filed by the firm provide for this change.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Bureau of Veterinary Medicine (HFV-145), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Norwich Eaton Pharmaceuticals, Inc., P.O. Box 191, Norwich, NY 13815, filed several supplemental NADA's informing the agency that ownership of the firm has been transferred from Morton-Norwich Products, Inc., to the Proctor & Gamble Co. The several NADA's involved are for various nitrofuran-containing products and a buquinolate premix. The supplements provide for a change of sponsor name only.

This intercorporate transfer of NADA's does not involve changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category I change which does not require reevaluation of the safety and effectiveness data in the parent applications. The supplemental NADA's for the change of sponsor name are approved, and the regulations are amended to reflect the change in sponsor name.

This action, the change of sponsor name, has no effect on the status of the NADA's subject to the change of sponsor.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

PART 510—NEW ANIMAL DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 by revising the entry "Norwich-Eaton Pharmaceuticals" in paragraph (c)(1) and revising the entry "000149" in paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Norwich Eaton Pharmaceuticals, Inc., P.O. Box 191, Norwich, NY 13815	000149
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000149	Norwich Eaton Pharmaceuticals, Inc., P.O. Box 191, Norwich, NY 13815.
* * * * *	

Effective date. September 14, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 30, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-24946 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 868

[Docket No. 78N-1648]

Anesthesiology Devices; General Provisions and Classification of 134 Devices

Correction

In FR Doc. 82-18941, appearing at page 31130, in the issue of Friday, July 16, 1982, make the following changes:

1. On page 31142, in the third column, the entry in the table of contents for § 868.1150 should read "Indwelling blood carbon dioxide partial pressure (P_{CO2}) analyzer.", and the contents entry for § 868.1200 should read "Indwelling blood oxygen partial pressure (P_{O2}) analyzer.".

2. On page 31143, in the third column, in § 868.1, the paragraph following paragraph (c) should be designated paragraph (d).

3. On page 31144, in the first column, the heading for § 868.1150, should read "§ 868.1150 Indwelling blood carbon dioxide partial pressure (P_{CO2}) analyzer.".

4. On page 31144, in the first column, the heading for § 868.1200, should read § 868.1200 Indwelling blood oxygen partial pressure (P_{O2}) analyzer.".

5. On page 31148, in the first column, in § 868.5460, the 8th line should read "breathes the vapor during normal".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. 82-965]

Mutual Mortgage Insurance and Rehabilitation Loans; Temporary Mortgage Assistance Payments and Assignments to HUD

Correction

In FR Doc. 82-20734, appearing at page 33252 in the issue for Monday, August 2, 1982, please make the following correction:

On page 33255, in the first column, in third line from the top, the word "there" should have been "three". (This correction affects § 203.606(a).)

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

Correction

In FR Doc. 82-23021, appearing on page 36635 in the issue for Monday, August 23, 1982, please make the following correction:

In the "Supplementary Information" paragraph, in the 18th line, the word "preclude" should have been "precede".

BILLING CODE 1505-01

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004G]

Occupational Exposure to Lead; Temporary Stay of Compliance Date

AGENCY: Occupational Safety and Health Administration, (Labor).

ACTION: Notice of temporary stay of compliance date.

SUMMARY: This notice temporarily stays the compliance date of paragraphs (e)(3)(ii) (B) and (E) of the lead standard (§ 1910.1025) for the primary and secondary lead smelting industries and the battery manufacturing industry, until November 15, 1982. The action is necessary to provide the additional time needed by the Agency to consider the appropriateness of the proposed administrative stay of these provisions pending the reconsideration of the lead standard.

DATE: The compliance date for § 1910.1025(e)(3)(ii) (B) and (E) is stayed until November 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N-3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-8148.

SUPPLEMENTARY INFORMATION: The lead standard (29 CFR 1910.1025) requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below the permissible exposure limit (or the interim level) by means of engineering and work practice controls in accordance with the implementation schedule found in paragraph (e)(1) of the standard (§ 1910.1025(e)(3)(i)). For three industries, the primary and secondary smelting of lead and battery manufacturing, the date by which the written compliance plan must be completed and available to the Agency was June 29, 1982.

OSHA is currently undertaking a thorough reconsideration of the lead standard which will be directed, among other objectives, at improving the cost-effectiveness of the standard. Aware of the lead reconsideration, several representatives of the primary and secondary smelting and battery manufacturing industries petitioned OSHA to issue an administrative stay of paragraphs (e)(3) and (r)(7) (B) and (C) pending the outcome of the reconsideration.

Seeing merit in these petitions, on June 18, 1982, OSHA proposed to stay the requirements of 29 CFR 1910.1025(e)(3)(ii) (B) and (E), which would require costly engineering plans and studies as well as detailed compliance schedules with specific evidence that the schedule is being implemented. (47 FR 26560). OSHA invited interested persons to submit comments on the proposed stay by July 19, 1982.

Along with the proposed stay, a temporary stay of the compliance date of these sections, until August 30, 1982, was published in the **Federal Register** on June 18, 1982 (47 FR 26557) to allow OSHA time to consider the comments. Many comments were received in response to the notice of the proposed administrative stay. At this time OSHA

needs some additional time to complete its consideration of the record prior to making a determination on the proposal. Accordingly the compliance date of these sections is hereby stayed until November 15, 1982. This should allow sufficient time to complete decisionmaking and prepare a final document. Due to the short deferral period, notice and opportunity for public comment on the temporary stay is impractical and unnecessary under 5 U.S.C. 533 and 29 U.S.C. 655(b).

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to sections 6(b) and 8(g) of the Occupational Safety and Health Act (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), 5 U.S.C. 553, Secretary's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911.

Signed at Washington, D.C. this 7th day of September 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-25022 Filed 9-9-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 865

Personnel Review Boards; Standards and Procedures of the Air Force Discharge Review Board

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: Pursuant to the December 3, 1981 ruling of the United States District Court for the District of Columbia in *Wood v. Secretary of Defense,* (Civil Action No. 77-084), the procedures of the Air Force Discharge Review Board are amended to set forth the standards and procedures to be used in the review of less than honorable discharges granted to applicants because of their civilian misconduct while in an inactive reserve component.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: George A. Henry, Jr., Col, USAF, Principal Advisor, Air Force Discharge Review Board, SAF Personnel Council, Washington, DC 20330, (202) 694-4398.

SUPPLEMENTARY INFORMATION: The Department of Air Force is amending Part 865 by adding a new paragraph § 865.121(b)(3) under Subpart B.

List of Subjects in 32 CFR Part 865

Administrative practice and procedure, Military personnel, Records.

PART 865—PERSONNEL REVIEW BOARDS

Accordingly, 32 CFR Part 865 is amended by adding paragraph (b)(3) to read as follows:

§ 865.121 Discharge review standards.

* * * * *

(b) * * *

(3) The following applies to applicants who received less than fully honorable administrative discharges because of their civilian misconduct while in an inactive reserve component and who were discharged or had their discharges reviewed on or after April 20, 1971; the DRB shall either recharacterize the discharge to honorable without any additional procedures or complete a review to determine whether proper grounds exist for the issuance of a less than honorable discharge, taking into account that:

(i) An other than honorable (formerly undesirable) discharge can only be based upon civilian misconduct found to have affected directly the performance of military duties;

(ii) A general discharge can only be based upon civilian misconduct found to have had an adverse impact on the overall effectiveness of the military including, military morale and efficiency.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-25174 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

32 CFR Part 865

Personnel Review Boards; Standards and Procedures of the Air Force Board for Correction of Military Records and of the Air Force Discharge Review Board

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: Pursuant to the July 16, 1982 order of the United States District Court for the District of Columbia in *Walters v. Secretary of Defense,* (Civil Action No. 81-962), the procedures of the Air Force Board for Correction of Military Records and of the Air Force Discharge Review Board are amended to set forth the standards and procedures to be used in the review of less than honorable discharges that were issued in an administrative proceeding in which the Air Force introduced evidence obtained as a result of compelled urinalysis testing. This final rule was not published for comment as a proposed rule because that would have been impracticable. The District Court ordered the Air Force to publish the rule and it did not permit the Air Force latitude as to the substance of the rule.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: *Air Force Board for Correction of Military Records:* William T. Randell, Executive Secretary, AF Board for Correction of Military Records, SAF/MICB, 1600 Wilson Blvd., Suite 400, Rosslyn, VA 22209, (202) 695-9672. *Air Force Discharge Review Board:* George A. Henry, Jr., Col. USAF, Principal Advisor, AF Discharge Review Board, SAF Personnel Council, Washington, DC 20330, (202) 694-4398.

SUPPLEMENTARY INFORMATION: The Department of Air Force is amending Part 865 by adding a new section § 865.19 under Subpart A, and a new paragraph § 865.121(d) under Subpart B.

List of Subjects in 32 CFR Part 865

Administrative practice and procedure, Military personnel, Records.

PART 865—PERSONNEL REVIEW BOARDS

Subpart A—Air Force Board for Correction of Military Records

Accordingly, 32 CFR Part 865 is amended by adding § 865.19 to read as follows:

§ 865.19 Special standards.

The following applies to applicants who received less than honorable administrative discharges prior to March 2, 1982 because evidence developed by or as a direct result of compulsory urinalysis testing was introduced in the proceedings. Applicants who believe they are members of the above category will so indicate this by writing "Category W" in block 11, DD Form 149, Application for Correction of Military or Naval Record. AFMPC/DOA1 will expedite processing these applications to the Board, where they shall be reviewed by a designated official. If the applicant falls within the class defined above, this official shall either recharacterize the discharge to honorable without any additional proceedings or recommend that new proceedings be initiated to determine whether other proper grounds exist for the issuance of a less than honorable discharge. If new administrative

proceedings are initiated, the former service member must be notified of:

(a) The basis for separation other than drug abuse or use or possession of drugs based upon compelled urinalysis that was specified in the commander's report and upon which the Air Force now seeks to base a less than honorable discharge.

(b) The full complement of procedural protections that are required by current regulations.

(c) Name, address and telephone number of an Area Defense Counsel with whom the former service member has a right to consult, and

(d) The right to participate in the new proceedings to be conducted at the Air Force Base nearest the former service member's current address, or to elect to maintain his or her present character of discharge.

Subpart B—Air Force Discharge Review Board

Section 865.121 is amended by adding paragraph (b)(4) to read as follows:

§ 865.121 Discharge review standards.

* * * * *

(b) * * *

(4) The following applies to applicants who received less than fully honorable administrative discharges prior to March 2, 1982 because evidence developed by or as a direct result of compulsory urinalysis testing was introduced in the proceedings. Applicants who believe they are members of the above class will so indicate this by writing "Category W" in block 8, of their DD Form 293. AFMPC/MPCDOA1 will expedite processing these applications to the DRB, where they shall be reviewed by a designated official. If the applicant falls within the class defined above, this official shall either recharacterize the discharge to honorable without any additional proceedings, or recommend that new proceedings be initiated to determine whether other proper grounds exist to justify the issuance of a less than honorable discharge. If is is determined that the applicant does not fall within the class, the application will be referred back to the Discharge Review Board for review in the normal course. If new administrative proceedings are initiated, the former service member must be notified of:

(i) The basis for separation other than drug abuse or use or possession of drugs based upon compelled urinalysis that was specified in the Commander's report and upon which the Air Force now seeks to base a less than honorable discharge.

(ii) The full complement of procedural protections that are required by current regulations.

(iii) Name, address and telephone number of an Area Defense Counsel with whom the former service member has a right to consult, and

(iv) The right to participate in the new proceedings to be conducted at the Air Force Base nearest the former service member's current address, or to elect to maintain his or her present character of discharge.

* * * * *

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-25175 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[Circular No. 2513]

Application Procedures; Amendment as to Place of Filing Simultaneous Oil and Gas Leasing Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations in 43 CFR Subpart 1821 relating to the filing of forms, specifically the place of filing of simultaneous oil and gas lease application forms. This amendment is necessitated by the extension of the use of the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Forms 3112-6 and 3112-6a) to all States. This also serves to give notice that all simultaneous oil and gas lease applications will be filed in the Wyoming State Office effective on November 1, 1982. The rulemaking also establishes the proper office to file oil and gas lease applications in Alaska.

EFFECTIVE DATE: October 14, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (530), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Michael H. Schwartz (202) 343-7753.

SUPPLEMENTARY INFORMATION: Existing regulations under § 3112.2-1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management.

On November 6, 1981, the Director approved the use of Bureau of Land Management Forms 3112-6 and 3112-6(a) for simultaneous oil and gas lease applications submitted to the Wyoming State Office and discontinued acceptance of Bureau of Land Management Form 3112-1 by the Wyoming State Office. **Federal Register** notices dated April 5, 1982 (47 FR 14488); June 1, 1982 (47 FR 23816); and July 26, 1982 (47 FR 31968) have extended use of the form to other State Offices of the Bureau of Land Management. In conjunction with the required use of Forms 3112-6 and 3112-6(a), this final rulemaking amends 43 CFR Subpart 1821 by designating the Wyoming State Office as the proper office for filing all simultaneous oil and gas lease applications. This notice also serves to inform the public that beginning on November 1, 1982, all applications for simultaneous oil and gas leases under the jurisdiction of the California and Utah State Offices must be submitted to the Wyoming State Office on Bureau of Land Management Forms 3112-6 and 3112-6(a). Adoption of the new lease form by California and Utah completes the transition from Form 3112-1 to Forms 3112-6 and 3112-6(a) as well as the requirement that all simultaneous applications be filed in the Wyoming State Office.

Effective on November 1, 1982, all applications for simultaneous oil and gas leases must be submitted to the Wyoming State Office. Applications filed on Form 3112-1 will not be accepted. Applications filed on the automated form and received in a condition that the authorized officer determines would prevent automated processing will not be accepted. The authorized officer will be guided in the decision of whether an application form is acceptable or unacceptable by criteria furnished in the Bureau of Land Management's manuals and in instruction memoranda. Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations.

This rulemaking also serves to clarify that the Bureau of Land Management State Office in Anchorage, Alaska, is the only proper place to file any application for Federal oil and gas leases in Alaska. Similar rulemaking was published on December 1, 1981 (46 FR 58316) but was inadvertently superseded by a rulemaking published on March 22, 1982 (47 FR 12292).

This final rulemaking is an administrative action. It codifies and clarifies current procedures and more

clearly explains to the public the proper location to file certain applications and the proper form to file. This rulemaking will make it easier to file for simultaneous oil and gas leases. No additional burden will be imposed on the public as a result of this final rulemaking, in fact, this rulemaking should lessen the burden.

The author of this final rulemaking is Michael H. Schwartz, Division of Oil and Gas, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96-354).

The final rulemaking does not affect the burden caused by the filing requirement, but consolidates in one location the place of filing. The effects of the final rulemaking are equal for all participants.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure, Alaska, Archives and records, Public lands.

Under the authority of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 3, 1982.

PART 1820—APPLICATION PROCEDURES

1. Section 1821.2-1 is amended as follows:

a. Revising the introductory text of paragraph (d) to read:

§ 1821.2-1 Office hours; place for filing.

* * * * *

(d) The Bureau of Land Management has redelegated authority to District and Area offices for processing certain types of public lands disposal and use authorization applications. In those instances where delegation has been made to the District or Area office from the State office, applications shall be filed with the District or Area office having responsibility for the public lands covered by the requested action. Accordingly, applicants, prior to the filing of an application, should contact the State, District, or Area office of the Bureau of Land Management in their immediate vicinity or where the public lands being applied for are located. Simultaneous oil and gas lease applications shall be filed only in the Wyoming State Office. The locations of the offices are as follows:

* * * * *

b. Revising Office and Area of Jurisdiction of the Alaska State Office in paragraph (d) to read: "Alaska State Office, 701 "C" Street, Box 13, Anchorage, Alaska 99513 Southern Alaska, as well as all oil and gas leasing.

c. Revising Office and Area of Jurisdiction of the Fairbanks District Office in paragraph (d) to read: "Fairbanks District Office, N. Post of Ft. Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707—Northern Alaska except for oil and gas leasing.

[FR Doc. 82-25133 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 507

[General Order 39, Docket No. 82-31]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States

AGENCY: Federal Maritime Commission.

ACTION: Removal of Part 507.

SUMMARY: This removes regulations designed to meet or adjust conditions unfavorable to shipping in the United States/Guatemalan trade resulting from a since repealed Guatemalan decree.

DATE: September 14, 1982.

ADDRESS: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On June 28, 1982, the Commission issued a notice of proposed rulemaking requesting comments on the proposed removal of Part 507 of Title 46 of the Code of Federal Regulations (47 FR 27875). No comments were received in response to the Commission's Notice.

Part 507 was promulgated, pursuant to section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 19(1)(b)), to offset the discriminatory effects of a Guatemalan decree on the United States foreign commerce. Because the Guatemalan Decree has now been repealed, there is no longer any need for the regulations in Part 507.

List of Subjects in 46 CFR Part 507

Guatemala, Maritime carriers, Reporting requirements.

PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES [REMOVED]

Therefore, it is ordered, that, pursuant to 5 U.S.C. 553 and section 43, Shipping Act, 1916 (46 U.S.C. 841(a) and section 19(1)(b)), Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), Part 507 of Title 46 of the CFR is removed.

It is further ordered, that this proceeding be discontinued.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25155 Filed 9-13-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82-45; FCC 82-351]

Domestic Fixed-Satellite Transponder Sales

AGENCY: Federal Communications Commission.

ACTION: Policy statement and order.

SUMMARY: The Commission found the sale of transponders on domestic satellites to users in the public interest. The Commission also found that the specific proposals before it did not constitute common carriage and modified outstanding space station radio authorizations to allow such sales.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Mazer, Common Carrier Bureau, (202) 634-1627.

SUPPLEMENTARY INFORMATION:

In the matter of Domestic Fixed-Satellite Transponder Sales, CC Docket No. 82-45; and in the matter of the applications of Hughes Communications, Inc., Southern Pacific Communications Company, RCA American Communications, Inc., Western Union Telegraph Company, for modification of domestic fixed satellite space station authorizations to permit

noncommon carrier transponder sales, File Nos. 995-DSS-MP/ML-(3)-82, 996-DSS-MP/ML-(4)-82, 997-DSS-MP/ML-82, 998-DSS-MP/ML-(3)-82.

Memorandum Opinion, Order and Authorization

Adopted: July 29, 1982.

Released: August 17, 1982.

By the Commission: Commissioner Fogarty dissenting and issuing a statement; Commissioner Jones concurring and issuing a statement; Commissioner Rivera issuing a separate statement in which Commissioner Washburn joins.

1. On February 8, 1982 (47 FR 6446, February 12, 1982) we adopted a *Notice of Proposed Rulemaking (Notice)* [1] inviting public comment on the proposals of certain domestic satellite (domsat) space station licensees to engage in the sale of discrete transponders on their authorized satellites.[2] In the *Notice* we also invited domsat licensees interested in selling transponders to file applications to modify their license authorizations. This order addresses the issues raised in the *Notice* and the requests for license modification submitted by the various domsat operators. For the reasons discussed below, we conclude that domestic satellite licensees should be allowed to engage in transponder sale transactions, and we approve those license applications before us which adequately demonstrate they are in the public interest and "noncommon carrier" in nature.

Introduction

2. In late 1980 Western Union Telegraph Company sent a letter to the Commission stating its intention to sell ownership rights, on a noncommon carrier basis, to transponders on its Westar satellite.[3] Subsequently, Hughes Communications, Inc. and RCA American Communications, Inc. submitted letters stating that they too intended to engage in transponder sales.[4] On May 6, 1981, the Commission issued a public notice requesting comment on these proposals.[5] Later the Common Carrier Bureau expressly informed these licensees that the Commission would be examining the lawfulness of the sales under the Communications Act of 1934. It further cautioned that any sale agreements would be at the risk of the licensee.[6]

3. All of the domsat operators who now wish to sell rather than lease transponders represented to us in their initial applications that service on the proposed satellites would be offered on a common carrier basis. Thus, the public interest determinations we made in the initial assignment of orbital locations and frequencies necessarily assumed that the facilities would generally be available to the public at large, and that the licensees accepted the responsibilities imposed on common carriers by Title II of the Communications Act. 47 U.S.C. 201 *et seq.* (1980).

4. The notice was issued so that we could fulfill our statutory obligation to determine whether the public interest would be served by certifying facilities for noncommon carrier services. Specifically, we sought to determine whether there were sufficient potential public benefits to justify the assignment of orbital locations and frequencies for these purposes.[7] We also required interested domestic satellite licensees to request license modifications to provide noncommon carrier service so that our determinations would be based on concrete proposals.

5. In response to the notice we have received comments and reply comments from more than 30 different parties[8] including submissions from the domsat licensees, transponder purchasers, resellers, assorted video programmers, and several public interest groups.[9] Requests for license modification were filed by Hughes Communications, Inc. (Hughes), RCA American Communications, Inc., (RCA Americom), Southern Pacific Communications Company (SPCC) and Western Union Telegraph Company (Western Union).

Proposed Sales

6. The transponder sale applications provide us with a more concrete picture of the exact nature of the transactions contemplated and the impact that they may have on the public interest. Specifically, these transactions present a distinct new method of marketing satellite facilities. As these operators see it, transponder sales would make available to customers tailored arrangements not possible under the more structured tariffed procedures which have generally been followed by satellite operators until now.[10]

7. Hughes has indicated that it plans to immediately sell 18 transponders on its Galaxy I satellite.[11] It proposes to convey to buyers ownership and title of individual transponders, which will include equipment installed expressly to deliver in combined form the aggregate communications signals from and to the receive and transmit antenna feed arrays respectively on the satellite. Hughes warrants the facility for nine years from date of delivery. Coterminous with the execution of the sale contract the company enters into a service agreement whereby Hughes retains full responsibility during the warranty period for proper maintenance of the satellite.

8. Hughes argues that as a new entrant in the competitive domsat industry it needs a different marketing approach to establish itself and therefore has predicated its marketing on the so-called "shopping center" concept. Under this scheme Hughes sought two "anchor" programmers which it hoped would increase the attractiveness of the satellite to other potential buyers. Consequently, six transponders were initially sold to Home Box Office, Inc. and four to Westinghouse Broadcasting Company, Inc. Subsequently, additional transponders were sold to Turner Broadcasting System, Inc. (2), SIN, Inc. (2), Viacom International, Inc. (2), and

[1] Domestic Fixed Satellite Transponder Sales, 88 FCC 2d 1419 (1982).

[2] A "transponder" is the device on a communications satellite which amplifies and relays transmissions between "transmit" and "receive" earth stations. Typically, a transponder in a 4/6 GHz satellite has a radio frequency bandwidth of 36 MHz. At the current state of technology this bandwidth can accommodate approximately 1200 simultaneous voice channels, 60 megabits of data per second, or a single color television channel with associated audio.

[3] *See* Letter from Western Union Telegraph Company to Secretary, Federal Communications Commission, November 12, 1980.

[4] *See* Letters from Hughes Communications, Inc. (March 2, 1981) and RCA American Communications, Inc. (April 10, 1981) to Secretary, Federal Communications Commission.

[5] Public Notice, Common Carrier Services Information, Report No. I-046, May 6, 1981. This notice also invited comments on a request from RCA Americom to be relieved from its obligation to tariff its transponder allocation procedures. This issue was resolved in Satellite Common Carriers' Transponder Assignment Procedures, 88 FCC 2d 1477 (1982).

[6] *See* Letter to Hughes Communications, Inc., Western Union Telegraph Company and RCA American Communications, Inc. from Chief, Common Carrier Bureau, June 14, 1981.

[7] *See* Domestic Communications Satellite Facilities (*Domsat II*), 35 FCC 2d 844 (1972) at 850-851.

[8] *See* Appendix A for a list of the parties who have filed comments in this proceeding.

[9] We hereby grant the motions for acceptance of late filed comments of Inner City Broadcasting and Western Union Telegraph Company since good cause has been shown and doing so will not delay the proceeding or prejudice other parties.

[10] When offered as common carrier service and regulated under Title II of the Communications Act, domsat capacity must be made available pursuant to just and reasonable tariffs. *See* 47 U.S.C. § 201, *et seq.* (1980).

[11] Hughes has authority to launch and deploy two satellites. *See* Hughes Communications, Inc., 84 FCC 2d 578 (1980). An application for a third satellite currently is pending before the Commission. Application File No. 1089-DSS-P/LA-80.

the Times-Mirror Company (2). The remaining six transponders are to be retained by Hughes to meet warranty obligations,[12] but in the interim they will be made available to users on a preemptible common carrier basis by Hughes Communications Carrier Services, Inc., another Hughes Aircraft subsidiary.[13] Hughes indicates that each of its customers was selected according to its relative attractiveness to the whole satellite and contracts were consummated pursuant to bilateral negotiations between the seller and the buyer.

9. RCA Americom's sales plan is somewhat different. While Hughes has requested authority to sell transponders on all its satellites, RCA Americom seeks authority to sell only five transponders on its SATCOM IV satellite.[14] RCA Americom also offers a different kind of warranty in its sales contract. It will sell a "protected transponder." [15] Thus, if the transponder fails, RCA will replace it with another on the same satellite. If none is available on the same satellite, a replacement will be found on another SATCOM satellite if possible. This protection does not extend beyond nine years from the date the satellite is launched. RCA Americom claims that sales are required to insure "a diverse mix of entities on the satellite" so that it can remain competitive with other satellite systems. It indicates that selection of customers was based on such factors "as experience, financial strength and successful operation". Two transponders each have been sold to CBS, Inc. and American Broadcasting Companies, Inc. and one to RCTV, a joint venture of Rockefeller Center Cable, Inc. and RCA Cable, Inc.

10. Western Union seeks blanket authority to sell transponders on the Westar IV, V and VI satellites. Like RCA Americom, it plans to sell protected transponders. Western Union has sold nine transponders on Westar V and two on Westar IV. The company indicates that the remaining transponders on those two satellites are committed to various lease customers.[16] However, marketing decisions with regard to the sale of transponders on Westar VI have yet to be made.[17] Contracts for transponders have been consummated with Citicorp (2), Dow Jones (2), Westinghouse (1), Digital Communications Corporation (1), TCI Satellite Services, Inc. (1), TSI Ltd. (2) and Equatorial Communications (2). The company claims to have been dealing with a limited number of potential buyers on a selective basis in negotiating the sale transactions, with individual decisions being made in each instance. It also claims that the terms and conditions of each sale were reached on a bilateral basis.

11. SPCC requests modification of all of its outstanding domsat authorizations[18] so that it can engage in the sale of transponders if competitive necessity dictates. SPCC has current authority to operate two satellites but does not provide any specific marketing plans for any of its satellites. It claims that it needs flexibility to make transponders available on any basis it deems necessary, whether it be by tariff, sale or long term lease. It intends to sell transponders to existing lease customers and others who express an interest.

Summary of the Comments

12. The principal proponents of transponder sales, Hughes, RCA Americom and Western Union, and their sale customers, argue that these transactions provide many benefits to the domsat licensees, their users and the public. They argue that sales are consistent with the Commission's public interest mandate under the Act and its domsat policies. Furthermore, they see no legal impediment to the transactions. Specifically, these parties contend that the accoutrements associated with transponder ownership are essential to their business objectives in so far as satellite communications is involved. They argue that sales are beneficial to both suppliers and users because it enables them to make long term plans. Moreover, it provides an additional means to acquire the capital to underwrite the large costs of satellite system development, launch and operation. From the users, perspective, sales permit firm assurances as to supply and price.

13. The proponents also argue that the sales approach is better than common carrier regulation. They assert that such regulation prevents the full economic value of a transponder from being realized and results in market dislocations. They also contend that sales will alleviate any satellite supply shortage in the long run by providing this additional method of outside financing and risk sharing. They argue the technique would also establish incentives for construction of increased transponder supply. Finally, those parties in favor of sale transactions believe that the competition that results from sales will prove so effective that it will eliminate the need for Title II regulation.

14. Transponder sales, according to the proponents of such transactions, represent a natural evolution of the domsat market and are consistent with the Commission's open, flexible and competitive domestic satellite policies. They argue that the Commission never intended to authorize domsat services solely on a common carrier basis. In support of this proposition are cited a number of examples of satellite facility transactions which operate outside the traditional common carrier lease mode. They believe that the public policy considerations outlined in their pleadings provide ample support for the Commission to continue its open and flexible domsat policies and to refrain from imposing unnecessary regulatory requirements on domsat licensees.

15. The licensees further argue that they are not operating as common carriers when they engage in the sale of transponders. For instance, Hughes states that it does not intend to provide a communications service. Under the terms of its sales contracts, Hughes claims it will engage in the *bona fide* sale of transponder equipment. The buyers of such facilities are to acquire full title to specific, physical facilities, assume risk of loss, enjoy the tax consequences of ownership, hold a limited performance warranty from the seller, and have authority to convey,

[12] These six reserved transponders are in addition to the spare transponders and redundant equipment which are not operational until switched into service to replace one of the twenty-four operational transponders in the case of failure. These extra features are included in the satellite to provide high reliability.

[13] Hughes Communications, Inc. the licensee of the Galaxy satellites is also a subsidiary of Hughes Aircraft.

[14] The company indicates that it will make further applications for license modification if competitive necessity dictates.

[15] According to the existing RCA satellite tariff, a protected transponder "denotes a transponder for which, in the event of failure or interruption, a replacement transponder has been designated which would assure the transmissions of the protected services". RCA American Communications, Inc., Tariff F.C.C. No. 1 at 6th revised page 19.1. *Cf.* Article 7 of the RCA sales contract.

[16] This includes the seven transponders that are designated for use by American Satellite Company. *See* Western Union Telegraph Company, 86 FCC 2d 196 (1981).

[17] Launch and deployment authority for this satellite is presently pending before the Commission. *See* Application File No. 723-DSS-P/LA-81.

[18] SPCC has authority to construct and deploy two satellites, each of which has 18 transponders at 4/6 GHz and 6 transponders at 12/14 GHz. An application to deploy a third satellite is presently pending before the Commission. Application File No. 889-DSS-P/LA-80. *See* Southern Pacific Communications Company, 84 FCC 2d 650 (1980). On July 21, 1982, SPCC filed with the Commission an amendment to its modification request which contained a description of its marketing plans and a standard sales contract. This amendment was placed on public notice on July 23, 1982.

lease, assign and encumber their designated ownership interest. The transponder owners will have rights of access to use the frequency associated with the specific transponder, although Hughes will continue to be responsible for the operation of the space station. As such, Hughes believes that it will not fall under the Commission's regulatory jurisdiction over common carriers established by Title II of the Act since it will not be rendering a communication service or offering transmission capacity.

16. Even if the Commission rejects the Hughes equipment sales argument the licensees contend that they can not be classified as common carriers because transponder sales do not involve the "indiscriminant holding out" of communication services to the public, which the D.C. Circuit Court of Appeals has held to be an essential ingredient of common carriage. *See National Association of Regulatory Utility Commissioners* v. *F.C.C.*, 525 F.2d 630 (D.C. Cir.) *cert. denied*, 425 U.S. 999 (1976) (hereinafter referred to as *NARUC I*). That ingredient is lacking, they argue, because the licensees' marketing arrangements involve negotiated and tailored sale agreements on an individualized basis, with careful selection of customers based on their contribution to the overall needs of the operator. Moreover, to the extent that public policy bears on the question of common carriage, the proponents contend that the benefits which flow from these transactions provide ample reason for the Commission to permit transponder sales.

17. The parties opposed to transponder sales, which include assorted resellers and middlemen (i.e. Satellite Syndicated Systems, Timothy Flynn, Hughes Television Network and Wold Communications), several cable programmers and a variety of public interest groups, contend that these transactions are inconsistent with the mandate of Section I of the Communications Act to "provide adequate facilities at reasonable charges". They claim that the only way that this mandate can be fulfilled is by requiring domestic satellite facilities to be offered to the public on a common carrier basis. They believe that domsat facilities are currently scarce resources. Thus, the domsat licensee will be able to obtain supra-normal profits for its services thereby limiting transponder access to deep pocket customers. This they consider to be inconsistent with the purposes of the Communications Act.

18. In support of the contention that demand exceeds supply, the opposing parties argue that all transponder space is already spoken for on currently authorized satellites, including those yet to be launched. They point to recent requests by American companies to utilize the Canadian satellites for U.S. service,[19] the non-cost based prices received by RCA in the Sotheby auction [20] and several studies which suggest that demand for satellite service will continue to exceed supply for the foreseeable future.[21] They assert that sales will do nothing to stimulate supply of satellite services and the supra-normal profits received in an unregulated market will provide ample incentive to maintain a shortage of supply. Also, serious technical and frequency constraints are pointed to as formidable barriers to any new entry. Since domsat operations have been successfully developed, financed and insured on a common carrier basis with the domsat supplier able to recover all of its costs plus a reasonable profit the need to share risks and obtain alternative forms of financing is considered negligible.

19. Opponents to sales argue that the anti-discrimination provisions of the Communications Act will be violated because access to transponders will be unreasonably restricted to only those prospective transponder purchasers who have the enormous financial resources to be able to participate in the sales market. Smaller users assertedly will be unable to procure the necessary capital and therefore will be precluded from obtaining the necessary transponder capacity. This is considered to be inconsistent with the Commission policies promoting diversity among program suppliers. Those opposed to the transactions contend that sales will increase the cost of satellite service to the buyer without any corresponding improvement in quality. These transactions will also inhibit competition in the pay television market, and ultimately result in the elimination of common carrier domsat services.

[19] *See* General Communication, Inc., Mimeo No. 001099, released May 27, 1981; ARGO Communications Corporation, FCC 82-249, released June 3, 1982; and pending application of GTE Satellite Corporation, File No. W-P-C-4355.

[20] *See* RCA American Communications, Inc., 89 FCC 2d 1139 (1982), appeal dismissed, Authority for Kentucky Educational Television and UTV Cable Network, Inc. v. FCC, D.C. Cir. No. 82-1318, July 21, 1982.

[21] *See e.g.*, ITT, "30/20 GHz Fixed Communications System Service Demand Assessment", Report to NASA, August 1979; Western Union, "18/30 GHz Fixed Communications System Service Demand Assessment", Report to NASA, July 1979; and American Satellite Company, Application File No. 521-DSS-P/LA-81.

20. The opposing parties also see serious legal impediments to the proposals. Specifically, they believe that the whole transponder sales idea is just an effort by satellite licensees to evade their common carrier obligations. Based on *NARUC I* they argue that there is no real difference between a sale and a long-term lease, and that the sales transactions fall under the definition of common carriage as "a public offering to provide for hire facilities by wire or radio whereby all members of the public who choose to employ such facilities may communicate or transmit intelligence of their own design or choosing". *NARUC I* at 641. The opponents contend that, regardless of whether the domsat operator classifies its provision of satellite service as a sale or a lease, the operator's responsibilities to the user are the same. The only real difference is the price charged and the method of payment. Thus, they argue that the licensees will be holding out their services indiscriminately to the public and therefore must be classified as common carriers. Other legal impediments identified by the opponents include alleged needs for the carriers to obtain Section 214 discontinuances of service prior to withdrawing facilities from common carriage service, and/or Section 310(d) transfers of control prior to delivering the transponder to the buyer.

Discussion

Background

21. The Commission has long recognized that particular market needs for telecommunication services may be met by means other than traditional common carrier offerings. Twenty years before *Domsat I*, 22 FCC 2d 86 (1970), the Commission authorized the operation of privately operated terrestrial systems and allowed the offering of various terrestrial communications services on a private basis. Thus, we have allocated spectrum both for private use and for private offerings. For example, in 1949, when the Commission allocated frequencies for the creation of private land mobile radio services, it recognized that the public interest would benefit by the allocation of the frequencies to both common carriers and private users for the provision of similar service through similar facilities. *General Mobile Radio Service*, 13 FCC 2d 1190, 1209-1211 (1949). Later, in the *Above 890* decision, 27 FCC 359 (1959), the Commission provided authorizations for private point-to-point microwave systems. It did so over the protests of the common

carriers, who argued that their businesses would be severely injured. The commission, however, believed that the availability of private systems where common carrier service already existed would be an impetus to competition in the manufacture of equipment and to the development of communications technology. More recently these kinds of policy objectives were relied upon by the Commission to justify allocating frequency for noncommon carrier service in the domestic public land mobile radio service. *Land Mobile Service*, 51 FCC 2d 945 (1975), affirmed *sub nom., National Association of Regulatory Utility Commissioners v FCC, Supra.*

22. Before us are several applications to modify existing domestic satellite authorizations so that specific transponders can be devoted to noncommon carrier purposes. The fact that we did not contemplate such contingencies at the time of the initial authorizations does not preclude consideration of such proposals now. The purpose of this proceeding is: (1) To examine the present and future public interest ramifications of generally permitting domestic satellite licensees to devote their satellites to noncommon carrier activities; (2) to ascertain whether these "concrete proposals" for noncommon carrier satellite operations are consistent with the public interest; and (3) to determine whether these concrete proposals constitute noncommon carrier activities, exempt from the requirements of Title II of the Communications Act.

23. Initially, we acknowledge that transponder sales represent a significant departure from the manner in which satellite service has generally been provided. Our domestic satellite policies, however, have been founded on the recognition that the satellite industry is one characterized by fluidity. Thus, the Commission determined that the benefits that could be provided to the public by domestic satellite technology were most likely to be realized by allowing open entry by qualified entities and flexibility in the Commission's response to particular domsat proposals.[22] The Commission established the following objectives to guide its licensing decisions:

(a) To maximize the opportunities for the early acquisition of technical, operational, and marketing data and experience in the use of this technology as a new communications resource for all types of services;

(b) To afford a reasonable opportunity for multiple entities to demonstrate how any operational and economic characteristics peculiar to satellite technology can be used to provide existing and new specialized services more economically and efficiently than can be done by terrestrial facilities;

(c) To facilitate the efficient development of this new resource by removing or neutralizing existing institutional restraints or inhibitions; and

(d) To retain flexibility in our policy making with respect to the use of satellite technology for domestic communications so as to make such adjustments therein as future experience and circumstances may dictate.

Domsat II at 846–47.

24. The Commission intended that a flexible regulatory policy would stimulate the efficient and economic development of domestic satellite technology and allow applicants, not the Commission, to shape the direction of the domsat operations. Domsat licensees were expected, therefore, to demonstrate the merits of their systems in actual commercial practice. It was hoped that these policies would encourage the development of competitive domsat systems in order to actively stimulate technical, service and market innovation.

25. Contrary to the assertions of some of the parties here, noncommon carrier operation of space segment facilities was contemplated in our Docket No. 16495 proceedings:

> * * * we will consider applications by all legally, technically, and financially qualified entities proposing the establishment and operation of domestic satellite systems. * * * Applicants may provide the rendition of such services directly to the public on a *common carrier basis* or by the lease of facilities to other common carriers, or any combination of such arrangements. Applicants may also propose *private ownership* and use or the *joint cooperative use* of the system by the several owners thereof. Applicants may further propose the *shared use* of some facilities by different systems, or a *division in the ownership of various system components.*

Domsat I at 93. (emphasis added).

26. A number of space station authorizations have been issued by the Commission which are not in the traditional common carrier mold. *See e.g., Western Union Telegraph Company*, 86 FCC 2d 196 (1981) (Advanced WESTAR); *Hughes Services Inc.*, FCC 79–809, released Dec. 4, 1979 (LEASAT); *GTE Satellite Corp.*, 43 FCC 2d 1141 (1973) (NSS private system); *Comsat General Corp.*, 42 FCC 2d 654 (1973) (COMSTAR). However, all domsat space segment facilities implemented to date ultimately have been made available for public use on a common carrier basis. In some cases this is done directly by the satellite licensee; and in others by the lessee of the underlying carrier. This result is to be attributed to the dynamics of the market, rather than any Commission mandate that domsat operators be classified as common carriers.

27. In evaluating the public interest ramifications of private transponder sales, both generally and in terms of the specific proposals before us, we must consider legal definitions of common carriage. The most comprehensive judicial recapitulation regarding the classification of communications common carriers is found in the *NARUC I* decision. There the Court identified two criteria determinative of common carrier status: (1) Whether there will be any "legal compulsion" to serve the public indifferently; and (2) if not, whether there are reasons implicit "in the nature" of the service "to expect an indifferent holding out to the eligible user public". *NARUC I* at 672. We will address these criteria separately.

Public Policy Considerations

28. The Communications Act was adopted long before the advent of communications satellites, and therefore it nowhere mandates that domestic satellite operators be regulated as common carriers.[23] Nor, as indicated in paragraph 25 above, has our domestic satellite policy precluded the licensing of noncommon carrier systems. While our flexible approach toward the regulation of domestic satellites was initially adopted to encourage experimentation and development of new satellite technologies, we have found it effective for regulation of the more mature systems coming on line this decade.[24] However, our experience to date has mostly been with common carrier systems, and we have not had occasion to review the public interest implications of generally licensing noncommon carrier systems in the more mature communications environment existing today. Therefore, we will examine whether our initial policy

[22] For a detailed summary of the Commission's domestic satellite policies *see* Orbit Deployment Plan, 84 FCC 2d 584 (1981) and Domestic Fixed Satellite Service, 88 FCC 2d 318 (1981). *See also*, the Commission's decisions in the Docket No. 16495 proceeding, 22 FCC 2d 86 (1970) (*Domsat I*); 35 FCC 2d 844 (1972) (*Domsat II*); *recon., in part*, 38 FCC 2d 665 (1972) (*Domsat III*).

[23] *See* F.C.C. v. Midwest Video Corp., 440 U.S. 689, 701 (1979); Western Union Telegraph Co., 78 FCC 2d 969 (1980); National Aeronautics and Space Administration, 61 FCC 2d 56 (1976); and Domsat II, 35 FCC 2d 844 (1972).

[24] Domestic Fixed Satellite Service, 88 FCC 2d 318, 323 (1981).

favoring licensing of noncommon carrier satellite operations promises sufficient benefit to the public interest to merit continuation.

29. Our mandate set forth in Section 1 of the Act, 47 U.S.C. 151 is to make available to the public, rapid and efficient communications, so far as possible. In fulfilling this mandate, as well as our Title III licensing responsibility, we endeavor to insure that the communications needs of as many diverse users as possible can be met. That many users are interested in obtaining satellite communications pursuant to noncommon carrier arrangements is evidenced by the number of agreements and the pleadings before us. Thus, a decision against these arrangements would thwart the expressed needs of many consumers and satellite operators alike. Moreover, our policy of relying upon marketplace forces to shape the evolution of satellite telecommunications has proved very fruitful over the years. Under these circumstances, we would hesitate to change our policy in a manner restrictive of the workings of the satellite marketplace unless there were compelling evidence that such action is necessary.

30. The domsat industry has developed considerably since our initial domsat policy decisions were made. We have moved from a speculative, experimental industry to a healthy and growing one. Today users can select from four different satellite systems to satisfy their communication service needs. These systems will be expanded considerably over the next few years and another four systems will be introduced by 1985.[25] In addition, we have every reason to expect additional entry if our proposals to reduce the spacing between satellites are ultimately adopted and pending system proposals are granted. In the variety of services available through domestic satellites we have witnessed a similar dramatic growth. From initial offerings of end-to-end private line services, satellite operations have expanded to include sophisticated data, switched private and public message, and video and audio program distribution networks. It is now commonplace for users to own and operate their own ground equipment with space segment facilities being provided by a common carrier.[26]

31. During the first years of operation domestic satellite suppliers were not overwhelmed with demand for their services and considerable operative capacity sat dormant. However, in the last few years the demand for satellite capacity has boomed, fueled particularly by the growth of program distributors servicing cable television systems and the unexpected failure of the SATCOM III launch in 1979. Thus, unpredicted growth in demand has temporarily created somewhat difficult supply/demand tensions.[27] As would be expected, entrepreneurs stepped forward to accommodate this new demand. By early 1981 the Commission had authorized the construction of 25 new satellites and the launch of 20 new or previously constructed satellites. *Orbit Deployment Plan*, 84 FCC 2d at 585. Of course, satellite systems cannot be immediately placed into operation. It may require a three to five year lead time before they become operational. The actual physical construction of the satellite takes nearly three years. Procurement of and payment for launch services normally begin at least 33 months ahead of time. Considering the internal management decisions, contract negotiations with spacecraft manufacturers and our processing procedures, the investment decision necessarily is made far in advance of the system's availability for commercial operation. This long lead time has contributed to what we believe is a temporary lag between the unexpected surge in demand for transponders and the construction and launch of new satellites sufficient to satisfy that demand. However, as explained below in paragraphs 36–38, we believe that construction of new satellites will meet or exceed the revised expectations of transponder demand.[28]

32. Because of the long lead planning time associated with satellite system operation, customer commitment for transponder capacity is becoming increasingly important to the satellite operator. With the growing introduction of competitive systems, operators may see a need for more assurance of utilization before additional facility investment decisions are made. There is a corollary need for the user of the system to be confident that its commitment will be honored at the time the satellite is put into operation. As acceptance of the satellite technology has grown, private users have expended considerable resources to establish their own satellite networks for internal corporate communications, as well as program distributions. These kinds of corporate commitments require substantial investments which may become useless if proper satellite capacity cannot be assured when the users network becomes ready for operation. These appear to be legitimate needs which should be accommodated if feasible.

33. We recognize that in order to minimize the extent of any future demand/supply imbalance, it is desirable to permit closer planning between the operator and its customers. We further accede that absent countervailing public interest considerations we should not frustrate methods of assuring the integrity of long term commitments between system operators and their users, such as the sales proposals which are the focus of this proceeding. As such, these transactions will serve the public interest by providing the sellers and prospective entrants an alternative method to secure the large amounts of capital necessary to construct satellite facilities. Furthermore, they provide a device to share the risks unique to satellite technology and a method for licensees to determine with some precision the future demand for satellite

[25] *Id.* The timetable for additional satellite launchings is provided in Appendix B.

[26] Transmitting earth stations are routinely licensed for private use. *See e.g.* Orbit Deployment Plan, note 23 *supra*, and Cities Service Oil Company, 51 FCC 2d 653 (1975).

[27] Much of the discussion of the imbalance in the industry has focused on the problems of obtaining transponders to deliver programming to cable television systems. We believe that this focus is misplaced, however, since the underlying constraint rests with the cable television systems. Specifically, most systems have 12 channel capacity and only one earth station. Therefore, cable programmers tend to gravitate towards the satellite that most earth stations are pointed towards. This condition is changing with the development of low cost earth stations and stations capable of receiving signals from more than one satellite. As the channel capacity of cable systems continues to expand there should be a corresponding increase in the number of systems with multiple access or second dishes. At that time, the demand by cable programmers to be on one particular satellite over another should dissipate.

[28] *See* in this regard, Darby, "Analysis of the Short Term Satellite Video Distribution Market" (1981). On the contrary, the studies conducted by IT&T and Western Union, *see* note 21 *supra*, conclude that demand for transponders will exceed supply for the foreseeable future. These studies, however, were conducted in 1979 and consequently did not accurately account for the supply and technological advancement now occuring. For instance, the IT&T study estimates that by year 2000 a maximum supply of 768 transponders in the 4/6 GHz and 12 GHz bands. Likewise, WU does not project a supply of more than 400 transponders by year 2000. This is far less than the 960 operational transponders we project to be available by the end of 1987. *See* Appendix B *infra*. Moreover, both studies underestimate the number of voice and data signals that can be handled by each transponder since even the highest capacity they assume for the year 2000 may be achievable with the types of satellites scheduled to be launched during the mid-to-late 1980's. When the demand estimates are adjusted for these factors both studies appear more consistent with the findings of the Darby report.

services.[29] Sale transactions can therefore help to insure that there is an adequate supply of transponders to meet all existing and prospective user needs. They also may provide a means for noncommon carrier licensees to optimize the value of their satellites to all users by compiling the right mix of buyers to maximize both their own profits and the profits of their buyers since the buyers' customers (i.e. cable systems) would receive more attractive program packages from the satellite.[30]

34. These transactions should also allow for more efficient usage of the orbital and frequency spectrum by providing sellers with the ability to design satellite systems to meet particular user needs. Transponder users will further benefit from the certainty that they will have the transponder capacity they need, when they need it and at a price that is not subject to change.[31] Finally, this additional financing mechanism should facilitate the entry of new domsat operators who without the option to engage in transponder sales might well be precluded from entering the domestic satellite market as a facility provider.[32] The competition that should ensue from these additional entrants should actively benefit all participants in the domestic satellite industry.

35. Against those benefits, we must weigh the possible detriments that have been alleged by the opponents of noncommon carrier satellite operations. The primary contention of these parties is that a scarcity of facilities currently exists in the industry, and if satellite operators are freed from common carrier regulation, they will take advantage of the scarcity situation to extract supra-normal prices. They claim that such prices would be so high that smaller users will be unable to afford access to satellite facilities. Unless the Commission utilizes the full extent of its Title II authority to avoid this development, it is argued that the agency will have violated its obligations under 47 U.S.C. 151 to ensure that the public is provided adequate facilities at reasonable charges.

36. In any case, we believe that the shortage the opponents of transponder sales aver to is a temporary one, which is now in its last stages.[33] The industry is responding to the upsurge in demand, and it appears that ample capacity is under construction now to provide for the needs of all users, big or small. The number of equivalent 36 MHz transponders will approximately double from the current 264 to 480 by year end 1984.[34] Moreover, applications are pending for 8 satellites at 4/6 GHz and 14 at 12/14 GHz. These systems could provide an additional 480 transponders, thus quadrupling available transponder supply over the next five years.

37. There appears to be no substance to the charges that if we allow the plans for sales to go forward, it will drastically curtail the availability of transponders left for common carrier use. The licensees' modification applications indicate that sales contracts have been consumated for only 34 transponders. Sixteen of these are to be sold in 1982, and the remainder sold in 1983. At present this amounts to 7.1 % of the transponders on the 20 satellites that have operational authority.[35] Western Union, Hughes and Southern Pacific have also requested authority to sell additional transponders on the satellites for which modification authority is requested, if competitive necessity dictates, but have made no firm plans to do so.[36] Even if all those transponders were authorized for noncommon carrier use, they would only total 104, 21.7% of the total stock of authorized transponders.[37] The other domsat licensees AT&T, GSAT, SBS and Spacecom are not presently seeking specific authority to engage in transponder sales. Thus, unless the licensees significantly change their current marketing plans, the large majority of transponders should remain available on a common carrier basis.

38. Nor are the prospects for transponder proliferation limited to the current projections reflected in Appendix B. Recent advances in

[29] The risks in satellite communications are somewhat more pronounced than other services. There are technical risks because of the possibility of launch, satellite or transponder failure. Moreover, the operator has to make large financial commitments, up to $100 million per satellite, most of which has to be paid years in advance of the time the system becomes available. Until now there was little if any firm knowledge as to the market conditions that would exist at the future time when the satellite is launched. Transponder sales provide a prospective operator a secure method to reduce marketing risks since actual demand can be determined at the time the transponders are put up for sale rather than the time the satellite goes into operation.

[30] *See* for a more detailed discussion, Besen, "An Economic Analysis of the Hughes Satellite Transponder Sale Proposal", in the comments of HBO in this docket, Appendix 1, at 15–27, (March 15, 1982). Hughes has evidently offered a preferred rate to HBO and Westinghouse, the satellite's "anchor stores." These two buyers accordingly increased the attractiveness of the satellite to the cable television industry allowing Hughes to charge a higher rate to the remaining buyers. Thus, Hughes and its customers hope to be in a more competitive position when offering the service provided over the satellite. As such, the ability to select customers is cenral to the concept of transponder sales. Therefore, we see no reason to impose access provisions on noncommon carrier domsat licensees as suggested by some of the parties.

[31] To the extent that these operators do develop cable program satellites which offer a wide variety of programs attractive to cable systems it may permit small cable operators to choose an alternative to the present primary cable satellite without any significant increase in costs or decrease in diversity of programs available to their customers.

[32] The difficulties of financing such a large capital venture as a satellite system are outlined in Jonschler, "Economic Implications of Transponder Sales", in the reply comments of Citicorp in this Docket.

[33] This situation has been mitigated by our authorization of several U.S. carriers to lease capacity on Telesat Canada satellites until December 1984. *See e.g.*, Argo Communications Corporation, FCC 82–249 released June 3, 1982, General Communications, Inc., Mimeo 001099 released May 27, 1981, and pending application File No. W–P–C–4355 of GTE Satellite Corporation. The first series of Canadian satellites, Anik A, were launched several years before the first U.S. domestic satellite. Because Telesat Canada began service at an earlier date it is presently in a position to take advantage of its near term excess capacity to provide transponders to U.S. entities. Thus, by 1984, Telesat is planning to have its next generation of five Anik (B, C and D) satellites in service with a capacity of about 100 transponders. However, as noted in Appendix B, planned expansion of U.S. satellite systems and new entry into the U.S. domsat market is expected to result in a quadrupling of U.S. domsat capacity to nearly 1000 transponders within the next 5 years. The recent examination of satellite usage conducted by the Commission's Field Operation Bureau was not made part of the record in this proceeding and therefore does not constitute a basis for our decision.

[34] *See* Appendix B for domestic transponder availability projections. Because transponder bandwidths vary from satellite to satellite, we have expressed the capacity of satellites in terms of "equivalent 36 MHz transponders" in this order. Transponders on 4/6 GHz satellites usually have bandwidths of 36 MHz, although a couple of newer satellites have 72 MHz (or two equivalent 36 MHz) transponders. Where the translation is not as apparent, we have expressed a single use of the 500 MHz allocated frequency band as twelve equivalent 36 MHz transponders. For example, ten 43 MHz or eight 54 MHz transponders in 12/14 GHz satellites are counted as twelve transponders.

[35] RCA has sold only 5 of its transponders on SATCOM IV, or 5% of its present total transponder capacity. Western Union has sold 11 transponders on Westar IV and V which accounts for 15.3% of its currently available capacity. Hughes has thus far entered into sale contracts for 18 of its transponders on Galaxy I which accounts for 37.5% of its presently authorized capacity.

[36] Hughes indicates that it might utilize the same marketing scheme it currently employs for Galaxy I to sell 18 transponders each on Galaxy II and III. It does not have authority, however, to operate Galaxy III. Likewise, Western Union requests authority to sell transponders on the Westar IV, V and VI satellites. However, it does not have authority to operate Westar VI, and it has preexisting lease commitments for the remaining transponders on Westar IV and V. Thus, according to its modification request Western Union does not have any other transponders available on its authorized satellites.

[37] These include the transponders that the applicants will have available (i.e. not committed for internal use or pre-existing lease customers) and which they request authority to sell Thus, Huges has 36, RCA Americom 5, Southren Pacific 52, and Western Union 11. Furthermore, we are not sanctioning any infringement of preexisting lease customers rights by domsat operators.

technology promise to increase the orbital positions available for new satellites. Specifically, if we implement the reduced orbital spacings at 4/6 and at 12/14 GHz proposed in CC Docket No. 81-704, the number of available orbital locations could ultimately double at 4/6 GHz and increase by 50% at 12/14 GHz. At the proposed 2° spacing, the number could increase to as many as 70. Also, there are currently no operating satellites or pending applications for orbital locations in the 20/30 GHz band. Thus, this entire orbital arc is available in these higher and much wider frequency bands to meet future demand for domestic satellite service. Moreover, there are technical refinements that could be utilized to increase the number of satellite services that can be provided within the limits of the usable orbit and spectrum. These include the use of multiple spot beams that could be narrowly focused to permit greater frequency re-use without interference. Bandwidth compression techniques would enable a satellite to accommodate more signals (i.e. voice, data or video) per transponder. These developments should result in substantial opportunities for expansion of satellite services and additional market entry.

39. We agree with the Department of Justice and the Federal Trade Commission that domestic satellite licensees do not possess the significant market power required to impair the reasonable availability of transponder supply.[38] The entry of new firms and the rapid expansion of capacity of both old and new firms in response to the provious temporary shortage is evidence of the competitiveness of this industry. Under such circumstances, excessive prices cannot be maintained because new entrants will be attracted with the result that the public will be afforded the maximum and most efficient use of this technology and prices will be forced down to lower levels. We do not see any evidence that small users will be deprived access to transponder facilities. To the contrary, transponder sales may make it possible for small users, who might be unable to afford access to transponders under a straight monthly lease arrangement, to finance a transponder purchase as a result of the tax benefits that accrue and the ability to collateralize the transponder as a tangible asset.[39]

40. Other specific injuries to the public interest which opponents allege would result from transponder sales include substantially increased costs to consumers, inhibiting competition in the pay television market, and the elimination of all common carrier satellite offerings. These concerns appear to flow from the fear that scarcity will worsen and that approval of the applications for modification would constitute a ruling that allows all transponders to be sold without further evaluation of the public interest consequences. We have already explained why sales will help alleviate the demand/supply imbalance thereby promoting the very interests which the opposing parties seek to protect.[40]

41. In sum, the record shows that the certification of noncommon carrier domsat systems is consistent with our policies fostering multiple satellite entry. They encourage additional entry, additional facility investment, more efficient use of the orbital and frequency spectrum and allow for technical and marketing innovation in the provision of domsat services. Accordingly, we conclude that there is no legal compulsion that all domsat licensees serve the public indifferently. We will, of course, continue to scrutinize every application for construction of satellite facilities to insure that they comport with the public interest.[41] Thus, additional noncommon carrier satellites will not be authorized if it should develop that their certification would not inure to the public interest (for example, if we find that additional transponders are required for users who need common carrier service).

Nature of the Service

42. In *NARUC I* the D.C. Circuit held that "the characteristic of holding oneself out to serve indiscriminately appears to be an essential element" of common carriage. 525 F. 2d at 642. It concluded that an entity will not be a common carrier "where its practice is to make individualized decisions, in particular cases, where and on what terms to deal." *Id.* at 641. In applying this standard to the case before it, the Court determined that operators of Specialized Mobile Radio Systems (SMRS) would not be likely to hold out their services indifferently to the public, and thereby become common carriers. To reach this conclusion, the Court focused on two particular aspects of SMRS service. First, it noted that the service would "involve the establishment of medium-to-long term relations * * * [in which] the clientele might remain relatively stable * * *." *Id.* at 643. Second, it said, even in those instances where the opertors might take on new clients it appeared that they would "be concerned about the personal and operational compatibility of a given applicant vis-a-vis the SMR system as a whole and the other clients using it." *Id.*

43. In these respects, the nature of transponder sales is like SMRS service. First, unlike the prevalent common carrier offerings where customers are repeatedly requesting the same service, these are one time offerings.[42] Each transponder will be offered (sold) only once by the domsat licensee, and once the transponders are sold, the licensee's marketing efforts are ended. Consequently the business relationship under consideration here exceeds even the "high level of stability" found significant in *NARUC I*, at 643.

44. Second, the movement in the industry toward long term relationships is evidence that the transponder buyer and seller have very particularized technical and marketing needs. Specific technical factors that may enter into the sale negotiations include the transponder's power, geographical coverage, polarization, antenna gain, and adjacent transponder usage. The utility of these technical characteristics will change depending on the buyer's particularized needs. For instance, fifty state coverage capabilities may be valuable in an abstract sense but it has no concrete economic value to a user

[38] Our finding of no significant market power is solely for the purpose of resolving whether domsats may sell transponders outside of common carrier operation under the *NARUC I* test. This test may differ from that utilized in our *Competitive Carrier Rulemaking* (*see* 85 FCC 2d 1, 20, 26-27; and 84 FCC 2d 499-500); and we do not here address the question of whether the common carrier operations of domsats should be streamlined or deregulated. That issue will be decided on the basis of the record developed and the distinct policy considerations involved in the *Competitive Carrier Rulemaking*. Another issue still pending in the Competitive Carrier proceeding is whether market power is a more appropriate test for identifying common carriage than the more traditional "holding out" test of *NARUC I*. Consequently, this decision relies strictly on the *NARUC I* standard, and market power is considered only to the extent that it bears upon whether public policy requires domsats to operate as common carriers.

[39] *See* comments of ABC and CBS, at 36-37, and comments of Vitalink, at 3-4. No arguments have been made that satellite facilities are necessary to provide essential services or that they should be subjected to a requirement of universal service.

[40] Questions have also been raised with regard to the warehousing of transponders by particular buyers. A review of the record, coupled with the limited number of sale transactions contemplated in the modification requests and the variance and number of buyers, does not reveal any present abuses. Also, we believe that the allegations made by some parties that sales will result in the concentration of control of transponders in the hands of only a few buyers is not substantiated by the record. This is illustrated by the fact that 15 different parties have purchased the 34 transponders sold.

[41] The Common Carrier Bureau will process such applications for our consideration.

[42] For instance, a typical MTS common carrier offering involves repeated dealings on a daily basis with millions of customers. The very nature of the MTS offering therefore makes it impractical to negotiate individually with each customer every time he or she picks up the telephone.

who has customers only in a limited geographical area. Similarly, a transponder utilizing solid state final amplifiers is technically desirable because of its higher linearity. This characteristic is very valuable to a user whose network is configured to require frequency division multiple access because of the greater channel capacity that can be derived from the more linear transponder amplifier. However, this linearity has little if any value *per se* to a user who has a requirement for only a single radio frequency carrier. Other examples become evident as the inherent characteristics of satellite technology are applied to increasingly specialized or customized services and we expect to see such offerings in the future.[43] Thus, the nature of transponder service is not such that it would be expected to be provided uniformly and indiscriminately to all potential customers on a common carrier basis.

45. In summary, our review of the record indicates little likelihood that noncommon carrier domsats will hold themselves out indifferently to serve the user public. Stable, long-term contractual offerings to individual customers of technically and operationally distinct portions of a satellite system fall far short of the indiscriminate holding out contemplated in the *NARUC I* decision. Having found no legal compulsion to serve indifferently, nor significant reasons implicit in the nature of transponder sales to expect an indifferent holding out to the eligible user public, we reaffirm that qualified persons may apply for domestic satellite licenses for noncommon carrier purposes.

Miscellaneous Issues

46. In the Notice we asked parties to address whether transponder sale transactions constitute a transfer of control of a radio device under Section 310(d) of the Communications Act, 47 U.S.C. § 310(d) (1980). The argument in favor of requiring a 310(d) certificate would be based on the premise that transponders are licensed radio transmitters under Title III of the Act. However, the Commission has never viewed a transponder in this manner. Rather, we have considered the entire satellite as the radio station for Title III licensing purposes, albeit with frequency assignments to each transponder, as well as the telemetry, tracking and command functions. This treatment is based on the responsibilities inherent in operating the satellite. We believe that these responsibilities are not altered by the sale of transponders, and therefore do not constitute a transfer of control under Title III.

47. One of the Commission's basic regulatory missions is to ensure the efficient utilization of the radio spectrum. To effectively execute this responsibility, persons desiring to operate radio transmitters are required to be licensed under Title III,[44] and they are obligated to "at all times retain exlusive responsibility for the operation and control of the radio facilities."[45] If the station is not being operated in a manner consistent with all provisions of the Communications Act, the Commission's rules and any conditions specified in the license permit, fines will be imposed or the license revoked.

48. We do not believe it is necessary to issue a license to the entity that utilizes the transponder since only the domsat operator is able to insure that the satellite's operation is consistent with the Commission's licensing responsibilities.[46] It has control over the maintenance of attitude and orbital position of the satellite, the electrical power necessary to operate the transponders, and all other tracking and telemetry responsibilities. If a malfunction occurs only the operator can change the technical parameters, switch on replacement equipment or turn the satellite off. Therefore, we have required that the domsat operator be the Commission licensee.

49. We do not believe there is anything intrinsic to transponder sales that now requires us to individually license the transponders. The buyer of a transponder, like a lessee under tariff, is unable to exercise licensee responsibilities because of the limited nature of its ownership rights. Each of the sellers has represented to the Commission that it intends to continue operating the telemetry, tracking and control stations and retain full authority to comply with all Commission requirements regarding operation of the satellite in orbit. The buyer only obtains ownership rights to the transponder equipment. Any rights to use the associated frequency are the same whether provided by the sales contract or pursuant to a tariffed lease arrangement. Therefore, it has no means to control the facility's power or transmissions. Thus, we believe that these transactions do not involve the transfer of control of a Title III license.

50. Some parties have contended that each of the licensees needs to obtain a Section 214 certificate of discontinuance of service prior to the consummation of any sales agreements.[47] However, we see no need to resolve that issue since the need for such authority has been obviated by the requests for license modification in which we must make the same public interest findings that we would in a Section 214 discontinuance proceeding. Therefore, to the extent necessary, authority for the licensees to discontinue service is granted coterminously with the grant of the Title III requests for modification of license to engage in transponder sales. *C.F. California Interstate Telephone Co. v. FCC*, 328 F.2d 556 (D.C. Cir. 1964).

51. Finally, in the notice we asked interested parties to comment on the ramifications of a licensee providing private and common carrier activities on the same satellite. We note that private networks using transponders leased from domsat licensees pursuant to tariff have been operational since 1975 with no detrimental effects to other domsat users, including those providing end-to-end service by common carriers. There are no legal compulsions that all transponder offerings be made pursuant to tariff; and the alleged detriments of transponder sales, such as potential cross-subsidies between tariffed and non-tariffed offerings, are not defined with sufficient specificity to convince us that the administrative delays and burdens resulting from regulatory

[43] Satellite operators may also seek to promote compatibility among purchasers. *See* for example the Hughes sales proposal disussed at para. 8, *supra*.

[44] Lorain Journal Company v. F.C.C., 351 F.2d 824, 829 (1965), *citing* Town and Country Radio Inc., 15 R.R. 1035, 1057 (1960). *See* Greater Boston Television Corporation, 444 F.2d 841, 861 (1970).

[45] Gulf Coast Communications, Inc., 81 F.C.C. 2d 499, 549 (1980) *quoting*, Intermountain Microwave, 24 R.R. 983, 984 (1963).

[46] The Commission in Western Union Telegraph Company, 86 FCC 196 (1981), recognized in a similar situation that control over the satellite system, not transponder ownership, is the essential ingredient in determining who should be the Title III licensee. Thus, when American Satellite Company acquired a 20% interest in the Westar IV and V satellites, which was to be reflected in the ownership of discrete transponders, it was not required to file a § 310(b) request for transfer of control of the radio license. It was noted that Western Union had indicated that it would "remain the licensee responsible to the Commission for the proper operation of the satellite system". Since operation and control remained with Western Union, we saw no reason to require that ASC become a Title III licensee of the satellite facilities. Similarly, we do not believe that separate licenses are necessary for all participants in a transponder sales situation. Moreover, we retain superintendance over the users of transponders since all transmissions to the transponder must be sent through a licensed uplink station.

[47] 47 U.S.C. 214 (1980). The section states in part: "No carrier shall discontinue, reduce or impair service to a community or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby."

intrusion into these domsat marketing efforts are in fact necessary to prevent such speculative events from occurring. We also asked whether there should be separate spectrum allocations for each type of service and whether privately operated satellites should be made subordinate to common carrier satellites with respect to our orbital assignment policies. There have been no compelling legal or policy arguments presented in this proceeding to justify separate or sub-allocations of the non-government frequency bands, allocated to fixed satellite service.[48] These appear to be "the kind of issue[s] where a month of experience will be worth a year of hearings." *American Airlines* v. *CAB*, 359 F.2d 624, 633, *cert. denied*, 385 U.S. 843 (1966).[49] Hughes claimed as an alternative argument that its proposals constituted the sale of equipment. However, because of our dispostion of other issues in this case we need not reach this issue.

Disposition of Applications

52. In *Domsat I* we set forth the information required of applicants for domsat space station facilities, whether for common carrier or non-common carrier service. *Domsat I* at 98–102. In our *Notice* initiating this proceeding we elaborated on these requirements to insure that an adequate record would be established to resolve the issues surrounding transponder sales. *See Notice* at note 23. The information submitted has been most useful in analyzing the modification applications. In order to avoid repeated examination of the general issues raised in this proceeding, we will require all future space station applicants to clearly specify whether their proposed operation will be on a common carrier basis. All future space segment applications should therefore to the extent possible contain the same information required of the current applicants as specified in *Domsat I, supra*, and in the *Notice*. This will enable use to make informed decisions about whether the public interest will be served by the operation of the proposed facility.

53. The applications captioned above were submitted in response to our *Notice*. Concrete proposals have therefore been presented to us for review and public comment. The applications for authority to sell transponders on the Galaxy I and II, Satcom IV and Westar IV and V satellites adequately satisfy our information requirements. Moreover, they are consistent with the policy and legal considerations discussed above concerning the criteria under which we will authorize space segment facilities to be constructed and launched for the provision of services on a noncommon carrier basis. Accordingly, we will grant the requested authority for these satellites.

54. We can not, however, grant Hughes and Western Union authority to sell transponders on satellites for which they have yet to receive operational authority under Title III of the Act. Thus, we will consider the requests to sell transponders on Galaxy III and Westar VI at the time we consider the applications for orbital authority for those satellites and after they have updated their applications pursuant to Section 1.65 of the rules. Until that time Hughes and Western Union should be aware that any sales consummated for transponders on those satellites will be at their own risk.

55. Finally, we can not grant authority at this time to Southern Pacific Communications Company to engage in transponder sales since they have only recently provided information with regard to their plans for the sale of satellite transponders.[50] All applicants are required to clearly describe the details of the proposed operations of their domsat systems. *See Domsat I, supra* at 98–102. Thus, applicants should not fail to include information as to (1) the proposed disposition of all satellite transponders, particularly as to whether common carriage or noncommon carriage, (2) if transponders are to be made available to other parties, the nature of such offerings (e.g. pursuant to ownership contracts, long or short term leases, etc.) and the principal terms of the offerings (e.g. ownership rights, warranty obligations, length of the contract, etc.), (3) marketing plans so that the *NARUC I* test can be applied, and (4) the number of transponders and the name of the purchasing customer for which sale contracts, if any, have been executed. Such information is necessary to make the requisite public interest determinations.

Conclusion

56. For the reasons set forth above, we believe that the transponder sale proposals present a positive market development that will enhance the provision of satellite services to the public. These transactions are consistent with the public interest, our domsat policies and all outstanding legal and regulatory requirements. Therefore, those applications to provide noncommon carrier service which are complete and demonstrate consistency with our public interest requirements will be granted.

57. Accordingly, it is ordered, that:

(a) Application File No. 995–DSS–MP/ML–(3)–82 is granted and Hughes Communications, Inc, is authorized to sell transponders on its Galaxy I and II satellites as proposed in its application.

(b) Application File No. 997–DSS–MP/ML–82 is granted and RCA American Communications is authorized to sell five transponders on its SATCOM IV satellite as proposed in its application.

(c) Application File No. 998–DSS–MP/ML–(3)–82 is granted and Western Union Telegraph Company is authorized to sell transponders on its WESTAR IV, and V satellites as proposed in its application.

(d) Application File No. 996–DSS–MP/ML–82 of Southern Pacific Communications Company is deferred.

58. It is further ordered that the Petitions to Deny Filed by Hughes Television Network, Post Newsweek Stations, Inc., Satellite Syndicated Systems, Inc., World Communications, Inc., and Timothy J. Flynn, *et al.* are denied.

59. It is further ordered that Hughes Communications, Inc. and Western Union Telegraph Company requests to sell transponders on Galaxy III and Westar VI, respectively, are deferred until such time as we consider the facilities applications for those satellites.

60. It is further ordered that the authorizations granted above and the underlying public interest considerations adopted herein shall be effective immediately.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

Appendix A.—List of Parties

American Broadcasting Companies, Inc. and CBS Inc.

[48] The principal concern of the parties advocating separate allocations is that the scarcity of domsat facilities will deprive users of access to satellite services. For the reasons expressed at paragraphs 36–39 *supra*, we believe that current facility availability, whether provided on a private or common carrier basis, will be sufficient to meet all customer needs. Therefore, we see no reason to require licensees offering such services to do so through a separate subsidiary or the need for separate frequency allocations.

[49] No comments were received with respect to our initial analysis pursuant to the Regulatory Flexibility Act in the Notice. We therefore adopt that analysis here.

[50] We will consider SPCC's application after the public has had an opportunity to comment on their sale proposal. *See* note 18, *supra*.

[1] See attached dissenting statement of Commissioner Joseph R. Fogarty; Concurring

American Satellite Company
American Telephone & Telegraph Company
Citicorp
Comsat General Corporation
Convid
Cox Broadcasting Corporation
Lewis C. Green, Jr.
Federal Trade Commission
GTE Satellite Corporation
Harris Corporation
Home Box Office, Inc.
Hughes Communications, Inc.
Hughes Television Network
Inner City Broadcasting Corporation
Martin Marietta Corporation
National Citizens Committee for Broadcasting
National Public Radio
Post-Newsweek Stations, Inc.
Public Broadcasting Service
Rainbow Programming Services Company
RCA American Communications, Inc.
Satellite Syndicated Systems, Inc.
Southern Pacific Communications Company
Spanish International Network, Inc.
Sotheby Parke Bernet, Inc.
Timothy J. Flynn, The Hon Foundation, and Joseph A. Corrazzi
Times Mirror Satellite Programming Company
T.S.I. LTS
Turner Broadcasting System, Inc.
United States Catholic Conference
United States Department of Justice
United States Satellite Systems, Inc.
Viacom International, Inc.
Vitalink Communications Corporation
Westinghouse Broadcasting Company, Inc.
Western Communications Research Institute, Inc.
Wold Communications, Inc.

Appendix B.—Currently Planned Transponder Availability

In order to provide some perspective on the impact of proposed transponder sales, this appendix summarizes the amount of transponder capacity currently authorized and the plans of present carriers and new entrants for additional capacity as reflected in applications currently being processed. *See* Domestic Fixed Satellite Service, FCC 82-233, released May 20, 1982.

Table 1 summarizes the overall amount of transponder capacity that may be available if all of the pending applications for in-orbit satellites are ultimately granted. In order to provide a single number, capacity is normalized in terms of equivalent 36 MHz transponders. A single use of the allocated 500 MHz band, whether by twelve 36 MHz, six 72 MHz, ten 43 MHz or eight 54 MHz transponders, is expressed as twelve equivalent 36 MHz transponders for the purposes of this appendix.

TABLE 1.—OVERALL TRANSPONDER AVAILABILITY

[Equivalent 36 MHz transponders]

	4/6 GHz	12/14 GHz	Both bands
In-orbit (July 1982)	240	24	264
Authorized (1982-1984)	96	120	216
Subtotal (Dec. 1984)	336	144	480
Pending (Dec. 1987)	192	288	480
Total	528	432	960

In Table 2, we identify the domestic satellites that provide the 264 equivalent transponder presently in-orbit. It should be noted that the number of transponders actually available to serve customers is slightly lower because of a few failed transponders that have not yet been replaced.

TABLE 2.—IN ORBIT SATELLITE CAPACITY AS OF JULY 1, 1982

[Equivalent 36 Mhz Transponders]

Satellite	Orbital location	4/6 GHz	12/14GHz
Comstar:			
D-1/D-2.	95° W	24 (36 MHz)	
D3	87° W	24 (36 MHz)	
D4	127° W	24 (36 MHz)	
Satcom:			
I	135° W	24 (36 MHz)	
II	119° W	24 (36 MHz)	
III-R	131° W	24 (36 MHz)	
IV	83° W	24 (36 MHz)	
Westar:			
I/II	79° W	12 (36 MHz)	
III	91° W	12 (36 MHz)	
IV	99° W	24 (36 MHz)	
V	123° W	24 (36 MHz)	
SBS:			
I	100° W		12 (10-43 MHz).
II	97° W		12 (10-43 MHz).
Total		240	24.
Grand total			264.

In the following Table 3, we list the launch schedule for the presently authorized domestic satellites and those for which applications are presently on file.

TABLE 3.—PRESENTLY ESTIMATED LAUNCH SCHEDULE FOR AUTHORIZED AND PENDING SATELLITES

Year-Satellite	Authorized		Pending		Total annual increment		
	4/6 GHz	12/14 GHz	4/6 GHz	12/14	4/6	12/14	Both
1982:							
Satcom V			24		24	12	36
SBS-III				12			
1983:							
Satcom I(R)							
Galaxy I	24						
Telstar 3A(R)							
Galaxy II	24						
Satcom II(R)							
Satcom VI			24		96		96
Westar VI			24				
1984:							
Adv. West I		24					
Spacenet I	24	12					
Gstar I		24					
Telstar 3B(R)							
Adv. West II		24					
SBS-IV				12			
Galaxy III			24				
Spacenet II	24	12					
Gstar II		24					
Telstar 3C			24		96	132	228
1985:							
Spacenet III			24	12			
SBS V				12	24	24	48
1986-1987:							
USSI				48			
ABC				48			
Rainbow				48			
ASC			48	24			
RCA				72	48	240	288
Total increment: 1982-1987					288	408	696

(R) Replacement.

In reconciling information from various sources, including NASA and trade press, as well as the applications, some assumptions have had to be made with respect to the intended use of the satellites.

statement of Commissioner Anne P. Jones; Separate statement of Commissioner Henry M. Rivera in which Commissioner Abbott Washburn joins.

Although changes can be expected to occur in the uses planned by the applicant or licensee for some of these specific satellites, the overall total transponder availability is not expected to change drastically over the next 5 years covered by current authorizations and applications.

Dissenting Statement of Commissioner Joseph R. Fogarty

In re Domestic Fixed-Satellite Transponder Sales; Applications of Hughes Communications Company, Southern Pacific Communications Company, RCA American Communications, Inc., Western Union Telegraph Company for Modification of Domestic Fixed Satellite Space Station Authorizations to Permit Non Common Carrier Transponder Sales.

The decision of the Commission concludes that domestic satellite licensees (domsats) are to be allowed to engage in transponder sale transactions, and, pursuant to this policy conclusion, approves those pending transponder sale applications which are found to demonstrate adequately that they are in the "public interest" and "noncommon carrier" in nature. I dissent from this decision because I believe the Commission has not properly recognized and applied its mandate to the issue before it, has not rationally supported its formulation of policy with reference to all relevant facts and factors, and has failed to consider alternative policy courses which would be congruent with the public interest.

The issue before the Commission in this proceeding is not simply whether domsat transponder sales are permissible under the Communications Act as an abstract proposition, but whether such sales may be approved in the current domsat environment consistent with this Commission's public interest responsibilities. This issue cannot be properly resolved without specific and faithful reference to the FCC's fundamental statutory mandate. As the courts have held:

An administrative agency, possessing power delegated by the legislative branch of government, must comply with the legislative requirement that its decisions be reasoned and in accordance with the purposes for which power has been delegated * * *. [A]n agency is not a legislature. Congress delegates rulemaking power in the anticipation that agencies will perform particular tasks * * *. [A]dministrative agencies derive their power from the laws of Congress and have no authority to act inconsistently with their statutory mandate.[1]

The FCC's fundamental statutory mandate, as prescribed by Congress in Section 1 of the Communications Act of 1934, states that this Commission was created—

For the purpose of *regulating* interstate and foreign commerce in communication by wire and radio *so as to make available*, so far as possible, to *all* the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio *communication service with adequate facilities at reasonable charges* * * * (Emphasis added).

This congressional statement of paramount purpose must instruct and guide the Commission in allocating radio spectrum, including satellite communications orbital slots and frequencies, pursuant to Title III of the Act, and in determining what classes of licensees are to be entitled to its use, and for what purposes, and under what terms and conditions. The standards of "public convenience, interest, or necessity"[2] or "public convenience and necessity"[3] which the Act prescribes for the discharge of these Commission functions and responsibilities perforce incorporate this fundamental Section 1 mandate. As the Court of Appeals for the D.C. Circuit stated in reviewing the FCC's original domsat policies, "the basic touchstone for public interest decision" is the Commission's mandate under Section 1 of the Act.[4]

This Commission public interest mandate to regulate "so as to make available, so far as possible, to all * * * communication service with adequate facilities at reasonable charges" must be applied to the issue of private transponder sales in the specific context of the existing domsat communications environment. While the FCC's original domsat policies of "open entry"[5] contemplated a wide variety of satellite system applications and appear to allow for consideration of "private" or "non-common carrier" systems incorporating the type of transponder sale proposals here at issue,[6] the Commission has a plain obligation to reassess its policies according to any changed circumstances so as to ensure continuing consistency with the statutorily mandated public interest.[7] Indeed, the Commission's *Domsat II*, Second Report and Order specifically acknowledged that it was "necessary to retain flexibility to alter our initial determinations in light of evolving circumstances."[8]

The original "open entry" Domsat policies were predicated on the Commission's assessment that "such * * * factors as the extent of demand for domestic satellite services, the particular services that can be provided most effectively and efficiently via this medium, and the costs involved" were then "unknown."[9] A "critical consideration" appeared then to be "what persons, with what plans, are presently willing to come forward to pioneer the development of domestic satellite services according to the dictates of their business judgment, their technical ingenuity, and any pertinent public interest requirement laid down by the Commission."[10] Given these uncertainties, the Commission opted for a regulatory structure of maximum flexibility as most consistent with its statutory mandate, concluding that "we can best render the public interest judgments as to what system or systems are to be authorized in the context of specific proposals."[11]

The private transponder sale proposals now before the Commission are advanced in a domsat environment strikingly different from that contemplated by the original *Domsat* decisions of over a decade ago. As this Commission decision concedes, public demand for domsat facilities and services—an "unknown factor" in 1979—has exceeded available supply.[12] The financial viability of domsat systems—another "unknown factor" a decade ago—has been proven in spectacular fashion.[13] The supply of domsat orbital slots available for new competitive entry is dwindling rapidly, and the prospect for increased supply sufficient to meet current and future increases in demand is at this time problematic at best.[14] The Commission's *First Report and Order* in the Competitive Carrier Rulemaking has classified domsat common carriers as "dominant," and therefore subject to full Title II regulation, based on findings that domsats "possess market power" and have the ability to increase price above cost in allocating transponder space so as to earn supracompetitive or excessive profits.[15] Other

[1] State Farm Mutual Automobile Insurance Co. v. Department of Transportation, —— F. 2d ——, Nos. 81-2220, 81-2221, Slip op. at 4, 32, 33 (D.C. Cir. June 1, 1982).

[2] *See, e.g.*, Section 303 (a) and (b) (Commission "shall" "Classify radio stations" and "Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class" "as public convenience, interest, or necessity requires."); Section 307(a) (Commission shall grant station licenses "if public convenience, interest, or necessity will be served thereby."); and Section 309 (Commission shall grant radio license applications according to whether "the public interest, convenience, and necessity" will be served thereby.).

[3] *See, e.g.*, Section 214 (Commission shall authorize common carrier facilities as "the present or future public convenience and necessity require.")

[4] Network Project v. FCC, 511 F. 2d 786, 793 (D.C. Cir. 1975).

[5] Domestic Communications Satellite Facilities, 22 FCC 2d 86 (1970), 35 FCC 2d 844 (1972), *recon. in part*, 38 FCC 2d 665 (1972) (*Domsat I, II*, and *III* respectively).

[6] *See* Domsat I, 22 FCC 2d 86, 93-94 (1970).

[7] *See* Geller v. FCC, 610 F. 2d 973, 980 and n. 58 (D.C. Cir. 1979).

[8] 35 FCC 2d 844, 850 (1972).

[9] Domsat I, 22 FCC 2d at 89.

[10] *Id.*

[11] *Id.*, at 94.

[12] As the majority's decision, at paragraph 31, acknowledges somewhat euphemistically, "unpredicted growth in demand has temporarily created somewhat difficult supply/demand tensions." *But see* paragraph 39 of the decision and note 15, infra.

[13] The November 9, 1981 RCAA transponder "auction" at Sotheby's produced "winning bids" in the total aggregate amount of $90.1 million compared with an aggregate total of $50 million in monthly charges which would have accrued to RCA over the fixed term at the tariff schedule rates then in effect—an auction "mark-up" of 80%.

[14] *See* Competitive Carrier Rulemaking (First Report and Order), 85 FCC 2d 1, 26-7 (1980).

[15] *Id.* The decision, at paragraph 39 and n.38, summarily advances the finding that domsat licensees "do not possess significant market power to impair the reasonable availability of transponder supply [because] the entry of new firms and the rapid expansion of capacity of both old and new firms in response to the previous temporary shortage is evidence of the competitiveness of this industry." This statement, according to the decision, does not purport to decide or pre-judge the issues of

government commentators have observed that domsats are a "bottleneck facility" not presently subject to effective competition.[16]

Given these currently prevailing characteristics of the domsat environment, the Commission cannot reasonably warrant that a policy of approving transponder sales on a private, noncommon carrier basis will be consistent with its most basic mandate—"to make available* * * communication service with adequate facilities at reasonable charges* * *." [17] Given the supply and demand imbalances in the existing domsat "marketplace" and the lack of cost-comparable facility and service substitutes, I believe the FCC's statutory mandate dictates the policy conclusion that Title II common carrier regulation is required to protect and promote the public interest in fair access to, just and reasonable charges for, and nondiscriminatory terms and conditions of domsat communications service. These regulatory responsibilities are assigned to this Commission by its statute, and they cannot be deferred or abdicated to a "competitive domsat marketplace" because such a marketplace does not now exist.[18]

It is critical here to observe that each of the domsat licensees now proposing private transponder sales originally represented to the Commission—and thereby to the public—that its system would be offered on a common carrier basis, and that accordingly common carrier authorizations under Section 214 of the Act accompanied the Title III radio station authorizations granted. Scarce orbital slots and satellite radio spectrum were thus assigned these licensees on the assumption and condition that their facilities and services would be offered to the public at large. While these licensees have now structured their latest transponder sale proposals so as to avoid a "holding out" to the general public within the definition of "common carrier" rendered by the *NARUC I* decision,[19] their unilateral actions cannot void the common carrier status which their original authorizations imposed, nor may the Commission alter that status without an adequate public interest rationale.[20] As the courts have advised:

An agency's view of what is in the public interest may change, either with or without a change in circumstances. But an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored* * * [21]

[S]udden and profound alterations in an agency's policy constitute "danger signals" that the will of Congress is being ignored.[22] The rationale which this decision offers to justify a policy of approving private domsat transponder sales may be "deliberate," but it lacks any reasoned articulation of how the paramount public interest in "adequate facilities at reasonable charges * * * available, so far as possible, to all" will be served by that policy.

The proponents of private transponder sales contend—and this decision embraces the contention as demonstrated fact—that permitting such sales now, in the present climate of domsat facility and service shortages, will help avoid future supply/demand imbalances by stimulating greater efficiency and capacity through more certain financing, risk-sharing, advance customer commitments, and long-range launch planning. The reality of this theory of "long-run" public interest is that the proponents of private transponder sales—and this compliant Commission decision—have only demonstrated how the applicants' private business interests and those of their select, closed group of purchasers will be served by sale approvals, not that such sales will serve the public interest as defined by the purposes and mandate of the Communications Act.

The plain intent and effect of private transponder sales in the current domsat environment of growing demand and uncertain supply is to withdraw a substantial number of scarce transponders—21.7 percent of all transponders now authorized if all pending sale applications are approved—from fair access by the general user public. Given the market power which domsat licensees now enjoy, authority to engage in private transponder sales conveys to these licensees the virtually unrestricted and unconditional power to charge prices which are "unjust and unreasonable"—i.e., what the market will bear unrelated to costs and unconstrained by competition—and, most critically, to discriminate unfairly and unreasonably against similarly-situated prospective customers. In construing the Communications Act of 1934, the courts have looked to the Interstate Commerce Act and its legislative history from which the language and purpose of the 1934 Act are borrowed and have identified the following fundamental purpose and intent common to both statutes:

The great desideratum is to secure equality, so far as practicable, in the facilities for transportation afforded and the rates charged by the instrumentalities of commerce. The burden of complaint is against unfair differences in these particulars as between different places, persons, commodities, and its essence is that these differences are unjust in comparison with the rates allowed for facilities afforded to other persons and places for a like service under similar circumstances.[23]

Congress designed the Interstate Commerce Act [and by parallel mandate the Communications Act] to benefit the people, not to create protected monopolies for those who profess to serve the public.[24]

On its face, a policy of approving private domsat transponder sales totally abandons

---

domsat carrier "market power" and deregulatory theory under pending review in the Further Notice of the *Competitive Carrier Rulemaking*, 84 FCC 2d 445 (1981), but is made "solely for the purpose of resolving whether domsats may sell transponders outside of common-carrier operations under the *NARUC I* test." Because a domsat is a domsat, whether it is a common carrier domsat or otherwise, it is difficult to understand how this finding does not prejudge the issues in the Further Notice by its reversal of the "market power/dominance" findings articulated in the First Report and Order. Perhaps the mere statement of this proposition makes it true, but, in any event, there is every indication in this decision that the Commission will be moving on to those Further Notice issues in short order, and thus the matter may become a moot point.

Be this as it may, the decision's summary references to a "previous temporary shortage" are wholly without any rational support since they are based exclusively on a "supply" analysis, which lumps together currently authorized and operational transponder capacity with authorized but not yet operational capacity, as well as potential future capacity represented by pending applications, and does not in any way correlate such supply variables with *any* analysis of current or future demand. In deciding whether or not the transponder shortage identified in the First Report and Order has now been alleviated, elementary economics would suggest that *both* sides of the "supply/demand tension" equation should be addressed. However, this decision's economic theory appears infinitely elastic.

As for the argument that because domsat licensees cannot restrict new entry, they do not have market power, this construct is wholly irrelevant to the critical question of whether domsats are in a position *now* to extract supracompetitive—that is, "unreasonable," charges and to engage in unfairly discriminatory practices. That these abuses may be alleviated in the "long-run" by new entry is irrelevant when the Commission cannot warrant with any certainty how long that run will last. This may be creative theory, but it is not the theory of the Communications Act. *See* note 18 and text infra.

[16] *See, e.g.*, Telecommunications in Transition: The Status of Competition in the Telecommunications Industry, Report of the Majority Staff of the Subcommittee on Telecommunications, Consumer Protection, and Finance of the House Committee on Energy and Commerce, Committee Print 97-V, 97th Cong., 1st Sess. 134 (November 3, 1981); *See also* Competitive Carrier Rulemaking—Further Notice, Separate Statement of Commissioner Joseph R. Fogarty, Concurring in Part; Dissenting in Part, 84 FCC 2d 537, 540-41 (1981).

[17] *See* FPC v. Texaco, 417 U.S. 380 (1974); FERC v. Penzoil Producing Co., 439 U.S. 508 (1979).

[18] *See* Hawaiian Telephone Co. v. FCC, 498 F. 2d 771, 777 (D.C. Cir. 1974) ("The whole theory of licensing and regulation by government agencies is based on the belief that competition cannot be trusted to do the job of regulation in that particular industry which competition does in other sectors of the economy."); *accord*, FCC v. RCA Communications, Inc., 346 U.S. 86, 93 (1953).

[19] National Association of Regulatory Utility Commissioners v. FCC *(NARUC I)* 525 F. 2d 630, 642 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 999 (1976).

[20] The majority's decision opines, at paragraph 26, that while "all domsat space segment facilities implemented to date ultimately have been made available for public use on a common carrier basis," this fact "is to be attributed to the dynamics of the market rather than any Commission mandate that domsat operators be classified as common carriers." In response to this purely speculative explanation. I submit that all domsat facilities are presently made available to the public on a common carrier basis because until now no existing domsat operator has envisioned that the Commission would abandon its public interest mandate in order to approve "private sales" of increasingly scarce transponder facilities.

[21] Greater Boston Television Corp. v. FCC, 444 F. 2d 841, 852 (D.C. Cir. 1971), *cert. denied*, 403 U.S. 923 (1971).

[22] State Farm Mutual Automobile Insurance Co. v. Department of Transportation, *supra* note 1, slip op. at 32.

[23] American Broadcasting Companies, Inc. v. FCC, 643 F.2d 818, 821 (D.C. Cir. 1980), quoting S. Rep. No. 46, 49th Cong., 1st Sess. 181-82 (1886).

[24] Central Florida Enterprises, Inc. v. FCC,—F.2d—, Nos. 81-1795, 81-1796, slip op. at 8 n.20 (D.C. Cir. July 13, 1982), quoting May Trucking Co. v. United States, 593 F.2d 1349, 1356 (D.C. Cir. 1979).

these statutory principles of equality, fair access, reasonable charges, and nondiscrimination and leaves in their void monopolies which no longer even profess to serve the needs of the general public.

That the immediate result of this decision is patently inconsistent with the FCC's public interest mandate and statutory responsibilities is obvious; that the "long-run" factors hypothecated by the Commission to avoid this inconsistency have any public, as opposed to private, interest validity is pure speculation without a scintilla of factual substantiation. The theory that private transponder sale arrangements are needed to minimize domsat entrepreneurial "risk" and thereby stimulate increased supply and new entry is wholly lacking in factual predicate and support. Aside from glib and summary incantation, neither the sale proponents nor the Commission have specified with any particularity the nature and dimension of any "risk" which must be minimized. It is beyond contravention that the existing domsat market has established its operational viability and financial profitability under a common carrier regime. Under this regime, domsat licensees have reasonable assurance that they will recover all their costs and also earn a reasonable rate of return.[25] There has been no showing whatsoever in this proceeding that there are technical risks involved in the launch and operation of satellities that cannot be adequately covered by insurance, the cost of which may be charged to the ratepaying customer as a legitimate expense of service.[26] Domsat licensees, who have already received their orbital slots and spectrum pursuant to common carrier authorizations, have never until now indicated to the Commission or to the public that their entrepreneurship was contingent on their complete discretion to transfer all the risks of their enterprise to their customers by up-front financing at privately determined, demand-based, market-clearing prices. The Commission's decision is completely silent as to what "real world" facts and figures, as opposed to theoretical considerations, warrant an alteration of the original expectations and conditions of domsat service. The Commission has not analyzed current and projected domsat costs or rates of return for any apparent inadequacies. It has merely hypothesized a problem—"risk minimization"—to rationalize a solution which effectively abdicates its mandate.[27]

This decision also struggles to suggest that the existing domsat market "supply/demand tensions" will be of "short-run" duration only, and that therefore private transponder sales may be approved now with no harm to the public interest. This theory is also one of pure speculation and provides but cold comfort to the current domsat user public who are given no real certainty or assurance as to how long this "short-run" may last. Although there are conflicting forecasts as to the future domsat market, the weight of the evidence strongly suggests that demand will continue to exceed supply in the long- as well as the short-term. Anticipated increases in domsat demand are not confined to video transmission needs; both voice and data services are growing rapidly, each with a proportionate requirement for satellite capacity. Because of international and technical limitations, there is a distinct limit on the number of satellites that can operate within the spectrum available to the United States. While technical advances may make more efficient use of that available space, it is doubtful whether such efficiencies will be sufficient to meet the burgeoning demand.

In response to the current shortage in domsat supply, the Commission has approved the construction and deployment of additional satellites, authorized the use of Telesat Canada to satisfy part of excess U.S. demand, sought to encourage innovations in ground and space segment facilities, and proposed a reduction from 4 degrees to 2 degrees in orbital spacing in the 4/6 GHz band. While the Commission's decision implies—and only implies—that these actions and proposals will suffice to alleviate current domsat facility and service scarcity and meet future domsat demand, this blithe optimism ignores critical qualifications.

Although a reduction from 4- to 2-degree spacing in the 4/6 GHz band would double the number of satellites in orbit, this proposal is not without attendant problems and uncertainties. A study submitted by AT&T with its reply comments in this proceeding suggests that "closer spacing would impose an intolerable burden on Earth Stations using 4.5 and smaller antennas. Interference problems * * * would degrade such services using the antennas to the point where the continued use of small antennas would likely not be possible." One solution which has been suggested to remedy this problem is to allow for the use of the 4 and 6 GHz bands in a bi-directional or reverse frequency mode. While this would eliminate the need to replace the smaller receiving antenna systems upon a move to closer orbital spacing, there are a number of technical and administrative difficulties to be overcome if this solution is to be implemented.[28] Because the 4/6 GHz band is heavily used by non-satellite services, concessions will be required in those terrestrial systems' performance standards. Such concessions would be cumulative with those needed to permit sharing with unidirectional satellite systems. Moreover, no 4/6 GHz bi-directional sharing guidelines have been developed by CCIR, and none were proposed by the developed countries at the 1979 WARC.

This Commission can hope that there will be some compromise on this critical orbital spacing issue. However, we have admitted that "Without shorter spacing, our policy proposals are driven by shortage, and require that we take actions that restrict growth if new entry is to be preserved."[29] A not unduly optimistic prediction is that a reduction in spacing to 2.5-or 3 degrees will ultimately be adopted. But, even at 3-degree spacing in the 4/6 GHz band, only approximately 3 or 4 orbital locations would remain unassigned after the pending applications filed before May 1, 1980 were granted. This limited number of remaining orbital slots would appear to be just adequate to accommodate one additional new system in orbit.[30] While it may serve as a temporary stop-gap measure, closer orbital spacing cannot be relied upon to meet adequately the increasing demand for domsat transponder service.

In addition to shorter orbital spacing, the Commission is here relying heavily on the development of more technically sophisticated and higher capacity satellite systems. While such yet to be unveiled designs will not be appropriate for every domsat facility and service, they may in the long run provide for some measure of increased efficiency. Inevitably, new developments in satellite design will involve complex trade-offs between technical, economic, operational, and marketing factors. The net impact of the prospect of such new design developments on facility supply and service availability is at this time unknown. As the Majority Staff Report of the House Subcommittee on Telecommunications, Consumer Protection, and Finance observes:

Second generation satellite firms still number only six competitors. Moreover, satellites may be specially engineered at great expense to serve particular needs. Thus, available capacity may not be fungible. For certain applications, capacity may be concentrated in one or more firms.[31] Another relevant and major qualification on the new design panacea is that the presently proposed lower capacity satellites, if launched during the mid-1980's with 7- to 10-year operating lifetimes, will preclude the introduction of the more sophisticated and higher capacity satellites which must be relied upon to meet the ever-increasing demand in the future. Given these technical and economic uncertainties of advanced satellite design, Commission reliance on such future improvements to hypothesize adequate domsat supply—in either the short-run or

[25] A "reasonable" rate of return for domsat licensees is quite remunerative. Prior to the Commission's decision allowing RCAA's auction-based tariff to become effective, RCAA enjoyed a 15% rate of return for its fixed-term transponder service. *See* RCA Americom Tariff FCC Nos. 1 and 2, Transmittal Nos. 191, 273, 293; *see also* RCA American Communications, Inc., CC Docket No. 80-766, 84 FCC 2d 353 (1980), 86 FCC 2d 1197 (1981). As previously noted, *supra* note 13, the RCAA "auction tariff" now in effect yields an 80% increase in total charges over those earned under this earlier rate of return.

[26] It should be noted that a great share of the technical risks associated with the development of domsat facilities and services have been borne by NASA with the "investment" of U.S. taxpayers.

[27] Just as "regulation perfectly reasonable and appropriate in the face of a given problem is highly capricious if that problem does not exist," Home Box Office v. FCC, 567 F.2d 9, 36 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 829 (1977), quoting City of Chicago v. FPC, 458 F.2d 731, 742 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972), so too de- or un-regulation is arbitrary and capricious if it ignores the public interest to address a problem which does not exist.

[28] *See* International Radio Consultative Committee Report 557.

[29] Domestic Fixed Satellite Service, 88 FCC 2d 318, 339 (1981).

[30] *Id.* at 331.

[31] Telecommunications in Transition, *supra* note 16, at 134.

long-run—is more wishful thinking than reasoned policy determination.

While this decision exhausts itself in the search for base of optimistic domsat "supply-side" speculation, it pays scant attention to assessing the likely increases in public user demand which the supply must meet. There are strong indications that growth in domsat demand will be large and constant. The National Aeronautics and Space Administration (NASA) recently commissioned independent studies by Western Union [32] and ITT [33] for the purpose of assessing potential demand for domsat capacity through the year 2000. The studies respectively employed somewhat different assumptions and analytic methods in preparing their forecasts, and consequently their results substantially differ in terms of both demand for particular services and associated transponder capacity and overall demand for transponder capacity. The studies' demand estimates for the voice, data, and video markets are as follows:

PROJECTED TRANSPONDER DEMAND

	1980	1990	2000
IT&T			
Voice	21	225	474
Data	5	355	436
Video	35	110	211
Total	61	690	1121
Western Union			
Voice	346	630	1862
Data	6	42	201
Video	80	157	258
Total	432	829	2321

While comparison of the absolute transponder demand numbers estimated by these studies is of limited policy-making utility given the differences in market definition and measurement assumptions, a comparison of the projected trends provides an indication of the rates at which demand for domsat facilities and services may be expected to grow. Taken together, the studies suggest that the voice market will grow at about 10 percent per year through 1990, data at 10 to 20 percent, electronic message service at about 20 percent, video at 3 percent, and teleconferencing at 10 to 30 percent.

It is clear that demand in existing domsat markets, such as video program distribution, is growing rapidly. Newly emerging markets are also expected to create marked increases in the demand for satellite transponders.[34] This increased demand in newly emerging markets in indicated by the following developments:

(1) *Videoteleconferencing.* Continued inflationary pressures will cause business to investigate means of reducing costs while increasing productivity. Teleconferencing is an emerging solution to the high cost of air travel and the concomitant loss of employee productivity. One consulting report has estimated that this will be a $250 million market by 1985.[35] In another study prepared for NAB, estimates reviewed for teleconferencing transponder demand ranged from a minimum of 10 transponders to more than a hundred with one estimate exceeding 1000.[36]

(2) *Switched Data Services.* Transcontinental bulk traffic, high-speed data, specialized applications and, most importantly, multipoint private networks will eventually be handled by satellites, which are cost-insensitive to distance, readily match dynamically varying multipoint networks, and have uniformly wide bandwidths available to both major cities and isolated towns.[37] In 1979 the Yankee Group released a study which projected a 7-fold increase in data equipment sales by 1985.[38] Since data traffic and numbers of terminals are closely related, this provides further evidence of a substantial increase in telecommunications traffic and potential utilization during this period.

(3) *Electronic Mail Service (EMS).* The largest potential EMS supplier is the U.S. Postal Service. Presently, USPS is engaged in the delivery of WU mailgrams which are, in part, sent via satellite and is proposing to acquire additional facilities from WU for its proposed electronic mail service.[39]

(4) *Broadcast Services.* The use of satellites by radio networks is also burgeoning. ASC has received two contracts to distribute audio programming—one involving a full transponder, all digital distribution network (Digital Music) and the other an SCPC service.[40] ABC radio in 1979 was soliciting proposals for a 4-feed stereo system, and Muzak annonced reaching an agreement with WU for satellite distribution of its programming.

(5) *Public Service Uses.* In July 1980, NTIA made grants to four entities to assist in developing public service uses of satellites. These grants were:

(a) *Appalachian Community Service Network (ACSN).* ACSN will expand its satellite/cable network now offering instructional programming to include national service applications. This builds on transferring this project from a NASA experiment to commerical operations.

(b) *Bell and Howell.* B & H will develop a Civic Affairs Network linking multiple locations via satellite. This will be used by public service organizations and Federal agencies for training, education, teleconferencing, and community outreach.

(c) *Public Service Satellite Consortium (PSSC).* NTIA will provide funds for improving PSSC uplinking for its own facilities as well as the unlinking of other grantees.

(d) *American Educational Television Network.* AETN is a new non-profit corporation which has space on Satcom for specialized continuing educational programming to members of professional associations and employee organizations, helping to meet state licensing and college credit requirements.[41]

As stated by American Satellite Company in its 1981 domsat system application, "The early position of Domsat Carriers with substantial excess capacity and limited service offering has evolved to fully utilized space segments with a seemingly insatiable customer demand for transponders and different telecommunications services." [42] While it is obvious that every detail of the new services and markets in the mid-1980s to 1990s time frame cannot be totally anticipated at this early stage, there is significant evidence that these expanding markets are in fact real. This review of the current and future domsat supply/demand environment strongly indicates that the present supply shortages may continue as the advantageous technical characteristics and economies of satellite technology create greater new use demand and claim an ever-increasing share of overall telecommunications transmission requirements and traffic. In its report to NASA, ITT concluded:

A most probable target year for saturation of C and Ku band capacity is 1989 * * * . [I]f technologic advances fail to achieve the projected improvements in transponder digital capacity, the most probable year in which C and Ku systems will become saturated advances to 1987.[43]

As previously elaborated, there is presently no assurance that either closer orbital spacing or new satellite designs will fill this supply/demand gap. The most that can be stated with any certainty is that presently there are significant domsat facility and service shortages—or, to use this decision's vernacular, "tensions"—and that the supply/demand future is entirely uncertain. On this record and under these circumstances, this Commission cannot reasonably warrant that adoption of a general policy favoring approval of private transponder sales will serve or be consistent with its mandate to ensure "adequate facilities at reasonable charges * * * available, so far as possible, to all."

In apparent recognition of this fundamental infirmity inherent in its decision, the Commission purports to limit the breadth of its policy statement by emphasizing that it is here only engaging in an *ad hoc* public interest and *NARUC I* review and approval

[32] Western Union, 18/30 GHz Fixed Communications System Service Demand Assessment, prepared for NASA, July 1979.

[33] ITT Report to NASA, August 1979.

[34] Walter Hinchman & Associates, "Future Demand for Domestic Satellite Capacity," submitted with Applications of Hughes Communications, Inc. for a domestic Satellite System, November 30, 1979.

[35] International Data Corporation Report—Teleconferencing (1979).

[36] "DBS Service, Economic and Market Factors," prepared for NAB by Browne, Bortz and Coddington, Denver, Colo., January 1981, IX.

[37] "Satellite Economics in the 1980's" Walter L. Morgan, Senior Staff Scientist of Comsat Laboratories, Satellite Communications, January 1980, 26–29.

[38] Yankee Group: *The Digital Impact—Transmission and Switching*, as reported in Telecommunications Reports, July 30, 1979.

[39] Walter Hinchman and Associates, *supra* note 31.

[40] American Satellite Company, Application for a Domestic Communications Satellite System, December 16, 1981, I–29–30.

[41] "DBS Service, Economic and Market Factors," *supra* note 36, at 10.

[42] American Satellite Company, Application, *supra* note 40, at I–16.

[43] ITT Report to NASA, at 45.

of the particular private sale applications before it. The decision also ostensibly makes the commitment that the Commission will "continue to scrutinize every application for construction of satellite facilities to insure that they comport with the public interest," and that "additional noncommon carrier satellites will not be authorized if it should develop that their certification would not inure to the public interest (for example, if we find that additional transponders are required for users who need common carrier service)." With all due respect, while these pledges are full of "public interest" sound and fury, they in reality signify nothing. Despite the Commission's vacillation in giving a formal label to its action, this decision establishes a general policy favoring approval of private transponder sales, including those embodied in applications for modification of outstanding common carrier domsat authorizations, as well as applications for new domsat facilities. Given the attractive opportunity to exercise dominant, unfettered market power which this decision affords, what the Commission now perceives as a mere trickle of private transponder sale applications is likely to become a flood. This decision provides no informed or articulated criteria for the Commission to assess the overall public interest in adequate domsat facilities at reasonable charges on an *ad hoc*, application-by-application basis. The Commission does not have—nor has it expressed any interest in developing—domsat market demand analyses, and the agency does not even possess routine and accurate data as to existing domsat facility and service utilization and availability. Without such a rational, informed basis for *ad hoc* transponder sale proposal review, these Commission "public interest" assurances are wholly devoid of substantive content and incapable of credible implementation.[44]

I would be disposed to consider limited transponder sale approvals but only in the context of a genuine and viable FCC commitment ensuring that the paramount interests of the domsat user public are protected and that our statutory mandate and responsibilities are adhered to. The Commission could have adopted one of several policy alternatives which would have satisfied these fundamental public interest criteria. The Commission could have refused to approve noncommon carrier domsat service until enough additional transponders come on line to eliminate the scarcity problem in fact as well as in futuristic theory; findings would have been made that the public interest requires that an adequate supply of transponders be made available on a common carrier basis to satisfy demand before private operations would be authorized; and nondiscriminatory access to all transponders could have been mandated.

That these rational and balanced alternatives have been ignored or rejected by the Commission is indicative that its decision is nothing more or less than a sweeping and total abdication of its statutory mandate and regulatory responsibilities to "competitive market forces" that do not now exist. Given the realities of this decision which belie its theory, I dissent.

Concurring Statement of Commissioner Anne P. Jones

In Re: CC Docket No. 82-45, Domestic Satellite Transponder Sales

I concur in this decision because I am persuaded that the transponder sales hereby authorized will comport with the public interest. However, I wish to make clear that my concurrence is based on my understanding that similar applications in the future will be considered on a case-by-case basis and granted only if the sales which they contemplate are determined by the Commission also to comport with the public interest. In short, it is my understanding that the precedential effect of this decision today is minimal.

I also wish to make clear that I am very troubled by the argument of some parties to this proceeding that allowing transponders to be disposed of by sale, or other "demand based" mechanisms, will price these scarce resources out of the reach of socially worthy users of limited means, such as educational institutions. I am concerned that the public interest mandate of this Commission may indeed include responsibility to at least try to prevent this from occurring. I therefore take this opportunity to say that, although I have not been able to discover any currently acceptable mechanism by which this Commission could ensure that socially worthy but nonaffluent users have access to transponders, I believe the Commission has a responsibility in this regard and any practical suggestions as to how that responsibility can be fulfilled would be welcomed.

Separate Statement of Commissioner Henry M. Rivera in Which Commissioner Abbott Washburn Joins

Re: CC Docket No. 82-45, Domestic Fixed-Satellite Transponder Sales.

I am writing separately to emphasize that the Commission did not adopt a policy in this proceeding generally approving non-common carrier DOMSAT transponder sales. Rather, it has expressed a willingness, in principle, to entertain future applications for such non-common carrier facilities, and, as we have done today, a commitment, to examine all such applicants on a case-by-case basis to "insure that they comport with the public interest . . . [and] inure to the public benefit." Para. 41. This course is compelled by the many unknowns facing this Commission, especially with regard to the future demand for transponders.

By adopting a case-by-case approach, the Commission acknowledged that it cannot make public policy in an information vacuum. Therefore, any actions in the Competitive Carrier rulemaking (CC Docket No. 79-252) must be faithful to the spirit of our decisions in this proceeding. It would be unfortunate and dishonest for this Commission to have committed to a case-by-case approach today only to jettison that course, in the very near future, by totally deregulating DOMSATS—given the absence of an adequate record on the nature of the DOMSAT industry and the demand for transponders. I would refuse to be a party to such intellectual legerdemain.

[FR Doc. 82-25020 Filed 9-13-82; 8:45 am]
BILLING CODE 6712-01-M

[44]The identification and protection of the public interest "is a complex task which requires extensive facilities, expert judgment and considerable knowledge of the * * * industry [and accordingly] Congress left that task to the Commission * * *." *McLean Trucking Co.* v. *United States*, 321 U.S. 67, 87 (1944). However, this delegation and deference assumes that the Commission will make at least some attempt to equip itself with basic knowledge of the industry necessary to hold itself out as an "expert agency." In the case of this Commission's putative domsat industry "expertise," such an assumption is clearly erroneous.

---

47 CFR Part 73

[BC Docket No. 82-311; RM-4091]

Radio Broadcast Services; FM Broadcast Station Rexburg, Idaho; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C FM Channel *263 to Rexburg, Idaho, and reserves it for noncommercial educational use, in response to a petition filed by Ricks College.

DATE: Effective November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 31, 1982.

Released: September 8, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Rexburg, Idaho); BC Docket No. 82-311, RM-4091; report and order (Proceeding Terminated).

1. The Commission herein considers a Notice of Proposed Rule Making, 47 FR 26862, published June 22, 1982, proposing the assignments of Channel *263 to Rexburg, Idaho, for use as a noncommercial educational FM assignment. The Notice was issued in response to a petition filed by Ricks College ("petitioner"), licensee of noncommercial educational FM Station KRIC (CP issued for Channel 211A). Supporting comments were filed by the petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Petitioner asserts that its proposal is the only feasible means of upgrading its facility to Class C status to expand

its coverage area and thereby provide improved service to the residents of Rexburg. According to petitioner, its proposal would also satisfy the Commission's directive contained in the *Second Report and Order* in Docket No. 20735.[1]

3. As indicated in the Notice, petitioner asserted that there are no channels available in the educational FM band to accommodate its proposed operation at 25,000 watts which would meet the new standards proposed in Docket 20735 (*Second Further Notice of Proposed Rule Making*, 47 FR 24144, published June 3, 1982), designed to protect such stations as Station KPVI-TV, operating on VHF Channel 6 in Pocatello, Idaho, either off-the-air, or through a local cable television system. According to petitioner, the potential interference problem is attributable to the fact that Pocatello is located approximately 65 miles from Rexburg, and therefore, the Grade B contour of Pocatello Station KPVI-TV extends into the Rexburg area.

4. For many years, the Commission has acknowledged the Channel 6 interference problem,[2] and has endeavored to abstain from allocating noncommercial educational frequencies on the lower end of the band. On occassion, we have reserved commercial FM channels for noncommercial educational use [3] where it was established that available frequencies in the educational band could result in harmful interference to nearby stations operating on VHF Television Channel 6. Here, a staff engineering study revealed that indeed there are no noncommerical channels available to Rexburg for a 25 kW Class C operation which would meet the proposed standards designed to protect Station KPVI-TV.

5. We believe that based upon the demonstrated unavailability of acceptable noncommercial educational channels to accommodate the instant proposal, Channel *263 should be assigned to Rexburg on a reserved basis.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective November 10, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Rexburg, Idaho, as follows:

City	Channel No.
Rexburg, Idaho	232A, 252A, and 263*.

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

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau. (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau,

[FR Doc. 82-25247 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

[1] At the time the petition for rule making was filed, petitioner was operating as a Class D 10-watt facility. As a protective measure, it concurrently filed an application to increase power to a minimum Class A facility, for which a construction permit is pending, to comply with the Commission's directive in the *Second Report and Order* in Docket No. 20735, 43 FR 39704, published September 6, 1978. In order to foster the most efficient use of limited spectrum space, the Commission therein directed existing Class D stations to either increase their power to a minimum of 100 watts or relocate on another channel.

[2] See, *Policy to Govern Change of FM Channels to Avoid Interference to TV Reception*, 6 R.R. 2d 672 (1966), and *FM Interference to TV Reception*, F.C.C. 67-1012, *Public Notice* released September 1, 1967.

[3] See, *Presque Isle, Maine*, 36 R.R. 2d 840 (1976); *Waco, Texas*, 11 R.R. 2d 1657 (1967); and *Muncie, Indiana*, 59 F.C.C. 2d 778 (1976).

47 CFR Part 73

[BC Docket No. 80-565; RM-3589, RM-3808]

Radio Broadcast Services; FM Broadcast Stations in Belleville, Kansas, Hastings and Holdrege, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns commercial FM Channel 221A to Belleville, Kansas, and Class C Channels 251 and 268 to Hastings, Nebraska. The license of Station KEZH(FM), Hastings, is modified conditionally to specify operation on Channel 268 and its channel (228A) is deleted. This action is being taken at the request of Central Radio, Inc. and Apollo Broadcasting Corporation.

DATE: Effective November 8, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 26, 1982.

Released: September 7, 1982.

In the matter of an amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Belleville, Kansas, Hastings and Holdrege, Nebraska); BC Docket No. 80-565, RM-3589, RM-3808; report and order. (Proceeding Terminated).

1. Before the Commission is the Further Notice of Proposed Rule Making and Orders To Show Cause in this proceeding which was published in the **Federal Register** on October 29, 1981 (46 FR 53469).

2. The *Further Notice* proposed to delete Channel 228A from Hasting, Nebraska, to assign Class C Channels 248 and 268 to Hastings; to add Channel 221A to Belleville, Kansas; and to substitute Channel 272A for Channel 249A at Holdrege, Nebraska. *Orders To Show Cause* were issued to the licensees of Stations KEZH(FM), Hastings, and KUVR-FM, Holdrege, as to why their licenses should not be modified to specify operation on Channels 248 and 272A, respectively.

3. This proceeding was instituted as the result of a petition by Central Radio, Inc. ("petitioner") to assign Channel 268 to Hastings.

4. We shall first provide some background information on this proceeding. The Notice of Proposed Rule Making, 45 FR 64988, proposed to assign two Class C Channels (251 and 268) to Hastings and delete Channel 228A to avoid intermixture. The Commission also proposed to modify the license of Station KEZH(FM) to specify operation on Channel 251 with reimbursement for the channel change. Petitioner stated in its comments that it was willing to reimburse KEZH as provided in the Notice. Highwood Broadcasting Corp. ("KEZH"), licensee of Station KEZH, filed an opposition to the proposed modification of its license to specify operation on Channel 251. KEZH complained that Channel 251 could not be used at its present site. It further stated that, if the Commission should decide to assign the two Class C Channels to Hastings, KEZH should be allowed to operate on Channel 268 rather than Channel 251. A site relocation would not be required for operation of KEZH on Channel 268. However, Cornhusker Television Corp. ("Cornhusker"), licensee of Station KGIN-TV, Grand Island, Nebraska, and Station KOLU-TV, Lincoln, Nebraska, opposed the assignment of both channels (268 and 251) to Hastings citing second harmonic interference problems to reception of its signal in the vicinity of the FM station's transmitter. Cornhusker urged that we condition the

assignment of these channels on locations which are sufficiently far enough apart so as to minimize interference and that the Channel 268 transmitter be located in a rural area to the east of Hastings. Although we found no impediment to the assignment of Channel 268, the potential problem was recognized and corrective measures were urged.

5. In addition a counterproposal was received from Apollo Broadcasting Corporation ("Apollo") to assign Channel 249A to Belleville, Kansas. The proposal conflicted with the assignment of either Channel 248 or Channel 251 to Hastings.

6. As a result of these pleadings we determined that Station KEZH should not be modified to Channel 251 due to the necessary site change and that although Channel 268 had potential interference problems, Central Radio indicated a willingness to undertake corrective measures, including a rural location to the west or even co-location with Station KGIN-TV. We did not know to what extent Station KEZH would attempt to correct the second harmonic problems if it were to operate on Channel 268 from its present site one mile from Hastings. Therefore we studied alternative Class C Channels to attempt to find two such channels for Hastings which could accommodate the site for Station KEZH and petitioner's desire for Channel 268. We came up with Channel 248 which could be assigned to Hastings and be used at the present KEZH transmitter site. Assigning the channel to Hastings would require a substitution for Channel 249A at Holdrege, Nebraska, on which Station KUVR-FM operates. We proposed the substitution of Channel 272A for 249A at Holdrege. To avoid a conflict with the counterproposal for the assignment of Channel 249A to Belleville as requested by Apollo we proposed the use of Channel 221A there. We ordered the licensees of Stations KEZH and KUVR-FM to show cause why their licenses should not be modified as proposed. We stated that both would be entitled to reimbursement for the required frequency changes by the eventual licensee of Channel 268 at Hastings.

7. Comments were filed by petitioner, KEZH, KUVR, Emil M. Hauser, Apollo and Cornhusker. Reply comments were filed by petitioner.

8. The Holdrege station (KUVR) opposed the change in its operating frequency. In the event, however, that KUVR is required to change its frequency, the cost of the changeover was estimated by KUVR to exceed $25,000. KUVR wanted assurance from the petitioner that it will pay full reimbursement costs and that it is financially qualified to do so.

9. Petitioner stated that it had previously expressed its willingness to reimburse KEZH for costs of changing frequency but was not prepared to make a commitment to reimburse KUVR. Petitioner charged that KUVR's estimated costs to change frequency, *i.e.*, in excess of $25,000, were excessive and "could not be justified under close scrutiny." Also, petitioner reaffirmed its support for the assignment of Channel 268 to Hastings in accordance with its original proposal.

10. Apollo and Emil M. Hauser supported the proposed assignment of Channel 221A to Belleville, Kansas, and each indicated their interest in applying for the channel, if assigned.

11. Inasmuch as petitioner failed to make a commitment to reimburse Holdrege Station KUVR for the proposed change of its frequency, our proposal to add Channel 248 to Hastings in lieu of Channel 251, will not be further considered. Thus, we return to the original proposal of assigning Channels 251 and 268 to Hastings. We regret that it was necessary to delay the resolution of this proceeding to pursue an alternative proposal that could not be accomplished. However, we believed that it was incumbent upon us to pursue other alternatives to meet the objections of Cornhusker and of Station KEZH. We have been unable to find reasonable alternatives which would not involve additional delay and still meet the interests of all parties despite extensive efforts on our part. Also we now have a new development that changes the position of the parties with respect to our original proposal. The adoption of the *Second Report and Order* in BC Docket No. 80-130, 90 F.C.C. 2d 88 (1982), eliminated intermixture as a concern. Thus there is no longer a need to upgrade Station KEZH to Class C status with reimbursement for the frequency change to avoid intermixture. However, Station KEZH has set forth its desire to operate a Class C station for its own competitive interests. The only difference now is that it would not be entitled to reimbursement for the changeover. In previous comments it had been opposed to the assignment of two Class C channels because of the intermixture and preclusive impacts. These matters are no longer germane to this proceedings in view of BC Docket No. 80-130, *supra*.

12. We continue to believe that the public interest would be better served by the assignment of two Class C channels to Hastings, rather than one. As noted in previous Notices substantial first and second FM services could be provided. Wide coverage area stations would be needed to provide service to a large and underserved rural area where there are few major communities and few stations. Both parties, petitioner and KEZH request Channel 268. The operation by KEZH on Channel 268, rather than Channel 251, is sought because no relocation of site would be involved. Petitioner has indicated a desire for Channel 268 throughout this proceeding without addressing its willingness to apply for Channel 251. The possible second harmonic interference problems on Channel 268 have not discouraged petitioner and it expects to undertake the generally necessary corrective measures. However, KEZH is also aware of the need for corrective measures and has still urged its own use of Channel 268. The only available plan that could provide Hastings with two Class C stations would involve the use of Channel 268 by Station KEZH. Therefore we favor assigning both channels (251 and 268) and allowing KEZH to operate Channel 268 under conditions set forth below while making Channel 251 available for application. We are clear on KEZH's unwillingness to purchase a new site for its transmitter. From the record we are less certain of petitioner's position with respect to Channel 251.

13. As for the matter of second harmonic interference, our study of the problem shows the following. Undoubtedly some area immediately surrounding a new and higher power Channel 268 installation as here proposed will cause such interference to the reception of Station KGIN-TV. As the interference would be within the grade A service area of KGIN-TV, we are more concerned about the potential problems from Channel 268 than from Channel 251. A new Channel 251 installation would be located approximately 60 miles from Station KOLN-TV in Lincoln, Nebraska, and therefore affect far fewer viewers. We shall impose a condition on the license of Station KEZH for operation on Channel 268 in accordance with our general policy as stated in *Policy to Govern Change of FM Channels to Avoid Interference to TV Reception*, 6 RR 2d 672 and in the Public Notice, *FM Interference to Television Reception*, 74 F.C.C. 2d 619 (1967), outlining the procedure to be followed by FM permittees. See also *Brazil and Rockville, Indiana*, 43 F.C.C. 2d 650 (1973), and *Hampton, Iowa*, 39 F.C.C. 2d 452 (1973). As for Channel 251, a transmitter site restriction of 19 miles south, southeast of Hastings is

necessary. To cover Hastings with a city-grade signal will require a relatively tall tower, high gain antenna and near maximum power. The use of such tower and antenna will tend to minimize the said interference problems.

14. We conclude that the matter here of second harmonic interference should not be treated in the rule making proceeding as an impediment to the assignment of an FM channel. Rather, certain measures as prescribed in the 1967 Public Notice concerning FM interference to television receivers (para. 18, *supra*) should be attempted first by the licensee to remedy such potential problems. Since we don't have KEZH's specific consent to employing the necessary corrective measures, authorization for use of Channel 268 in Hastings will be so conditioned.

15. We have set forth the specific corrective measures below in accordance with our Public Notice, *FM Interference to Television Reception* (FCC 67-1012), 74 F.C.C. 2d 619:

(1) Conduct equipment tests when other stations which may be involved are in operation, especially during daytime hours.

(2) Make special interference tests with two or more different types of TV receivers (including color) with these receivers located within the transmitter building and also at selected locations throughout the city.

(3) If interference is indicated, determine the various types of FM traps and filters which, when installed at the TV receiver, will cure the problem.

(4) Communicate with as many TV retailers, wholesalers and servicemen as possible and demonstrate to them the steps necessary to alleviate the interference.

(5) When filing the license application and request for program test authority, advise the Commission of the nature of interference which may result when operation begins and the steps which have been taken to anticipate complaints.

16. In the event that KEZH declines to accept the condition for modification of its license, the modification would be rescinded, and KEZH could continue to operate on its present Channel 228A or it could apply for operation on Channel 251. Petitioner could then apply for operation on either Channel 268 or 251. Operation on Channel 268 by any successful applicant would be subject to the same condition as set out in paragraph 15, *supra*.

17. One final matter with regard to the substitution of Channel 268 for Channel 221A at Hastings. We previously indicated that Station KEZH should be reimbursed for the change in its frequency. In view of the fact that BC Docket No. 80-130, *supra*, eliminated the intermixtue policy which formed the basis for requiring reimbursement and since KEZH is receiving the more preferred channel, we shall remove this obligation.

18. Finally we also grant the petition of Apollo Broadcasting Corporation to add a new Class A channel to Belleville, Kansas, as a first FM station. Our Further Notice of Proposed Rule Making herein substituted Channel 221A for Channel 249A which was requested by Apollo. The latter conflicts with the assignment of Channel 251 to Hastings. Apollo and Emil Hauser affirm that they will apply for the channel if it is assigned and, if authorized, build a station promptly.

19. We conclude that the public interest would be served by the assignments of Channels 251 and 268 to Hastings, Nebraska, and of Channel 221A to Belleville, Kansas.

20. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204 and 0.281 of the Commission's Rules.

21. Accordingly, it is ordered, That effective November 8, 1982, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following communities:

City	Channel No.
Belleville, Kansas	221A
Hastings, Nebraska	251, 268

22. It is further ordered, That pursuant to Section 316(b) of the Communications Act of 1934, as amended, the license of Highwood Broadcasting Corporation for Station KEZH, Hastings, Nebraska, is modified, effective November 8, 1982, to specify operation on Channel 268, in lieu of Channel 228A, provided that it will meet the conditions as set forth in paragraph 15 *supra*, concerning interference to the reception of TV Station KGIN-TV. The license modification for Station KEZH is also subject to the following:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

23. It is further ordered, That the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to Highwood Broadcasting Corporation, 500 J Street, Hastings, Nebraska 68901.

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

25. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25245 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 80-75; RM-3298, RM-4100]

Radio Broadcast Services; FM Broadcast Station in Columbia, Jamestown, and Smiths Grove, Kentucky, and Lebanon, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 296A to Smiths Grove, Kentucky, and substitutes Channel 298 for Channel 297 at Lebanon, Tennessee, at the request of Charles M. Anderson and J. Barry Williams. The assignment provides Smiths Grove with its first local aural service. Additionally, the license of Station WUSW, Lebanon, Tennessee, is modified to specify operation on Channel 298.

DATE: Effective November 1, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Columbia, Jamestown, and Smiths Grove, Kentucky, and Lebanon, Tennessee).[1]

[1] The community of Lebanon, Tennessee, has been added to the caption.

Report and Order

(Proceeding Terminated)

Adopted: August 23, 1982.

Released: September 3, 1982.

1. Before the Commission is the Notice of Proposed Rule Making, 47 FR 10601, republished March 11, 1982, proposing the assignment of FM Channel 228A to Smiths Grove, Kentucky, at the request of Charles M. Anderson and J. Barry Williams ("petitioners"). The assignment of Channel 228A to Smiths Grove requires the substitution of Channel 285A for Channel 228A (now occupied by Station WAIN-FM) at Columbia, Kentucky, and the substitution of Channel 228A for Channel 285A (now occupied by Station WJRS) at Jamestown, Kentucky. In response to the Notice, petitioners submitted comments and a counterproposal.[2] The counterproposal seeks the assignment of Channel 296A to Smiths Grove. This assignment would not require any substitutions at Columbia and Jamestown, but would require the substitution of Channel 298 for Channel 297 (now occupied by Station WUSW) at Lebanon, Tennessee. A late-filed counterproposal to petitioners' counterproposal was submitted by Butler County Broadcasting Company, Inc. ("Butler"). The Butler counterproposal seeks the assignment of Channel 296A to Morgantown, Kentucky. Channel 296A cannot be assigned to both Morgantown and Smiths Grove.

2. Before proceeding with a substantive evaluation of this case, a procedural matter must first be resolved. Butler has submitted a counterproposal to petitioners' counterproposal. However, the Commission's Rules do not provide for the submission of "counter" counterproposals filed after the initial comment deadline. Thus, we must decide whether the petition of Butler can be accepted and considered in this proceeding. Obviously, there are equities favoring both sides of this issue. If the counterproposal is not accepted and considered, the petitioner loses this opportunity to pursue a channel assignment to the desired community. Conceivably, no other assignments would be possible and the opportunity to assign a channel to a particular community would be lost for the foreseeable future. On the other hand, if one "counter" counterproposal is accepted, another may be filed, and another, *ad infinitem*. At some point we must declare that the continuous filing of counterproposals, as it delays the resolution of the proceeding and the initiation of new radio services, is thus contrary to the public interest.

3. After careful consideration we must conclude that the opportunity for the filing of a counterproposal must be cut off at the date for filing initial comments in the proceeding. A strict reading of the Commission's rules supports this decision. The rules speak in terms of a counterproposal to an initial petition for rule making. Comments on the counterproposal are due at the time reply comments for the original petition must be filed. Thus, the rules do not contemplate an additional round of proposals and responsive pleadings. This conclusion makes practical sense as well. At some point we must seek administrative finality. Allowing a series of counterproposals clearly does not serve this end. We realize that this decision may result in the denial of assignments to some communities. However, the efficient assignment of scarce spectrum requires that a line be drawn somewhere. In this instance, we are drawing the line at the end of the initial comment period. "Counter" counterproposals received after the comment deadline will not be considered.[3] Accordingly, the counterproposal filed by Butler County will be dismissed.

4. We now turn to consideration of petitioners' proposal for an assignment to Smiths Grove. Smiths Grove (pop. 767) [4] is located in the northeast corner of Warren County (pop. 71,828), adjacent to Edmonson County (pop. 9,962) and approximately 22 kilometers (14 miles) from Bowling Green, Kentucky. Smiths Grove presently has no local aural broadcast service.

5. In the Notice, we stated that Channel 228A could be assigned to Smiths Grove in compliance with the minimum distance separation requirements provided the transmitter sites of Station WAIN-FM, Columbia, and Station WJRS, Jamestown, are relocated to accommodate the proposed substitution of channels. Petitioners state that the affected Columbia and Jamestown licensees originally agreed to the channel substitutions and transmitter relocations. However, petitioners state that Channel 296A could also be assigned to Smiths Grove without affecting the Columbia and Jamestown assignments. The assignment of Channel 296A to Smiths Grove would require only one channel substitution: Channel 298 for Channel 297 at Lebanon, Tennessee. Petitioners note that this substitution has already been proposed in BC Docket No. 82-194. Petitioners agree to reimburse the licensee of Station WUSW, the operator on Channel 297 at Lebanon for the expenses necessary to effectuate the change in frequency. Petitioners urge that either Channel 228A or Channel 296A be assigned to Smiths Grove, and state that they will apply for authority to construct and operate a channel there, if assigned.

6. As stated above, assigning Channel 228A to Smiths Grove would necessitate channel substitutions and transmitter relocations in two communities. Further, aside from petitioners statements that the affected licensees have no objections to the substitutions and transmitter relocations, we have no indication directly from the licensees that they consent to these changes. Without a direct commitment we are hesitant to make an assignment which would require the relocation of a station's transmitting antenna. In this proceeding, however, there is an alternative assignment available for Smiths Grove. Channel 296A can be assigned to Smiths Grove if Channel 298 is substituted for Channel 297 at Lebanon, Tennessee, and the license of Station WUSW at Lebanon is modified. In another proceeding, the licensee of Station WUSW has agreed to the channel substitution and license modification so long as it is reimbursed for its expenses in carrying out the channel change.[5] Petitioners herein state that they will reimburse the WUSW licensee.[6] Assigning Channel 296A to

[2] Public notice of the counterproposal was given on April 28, 1982, Report No. 1349.

[3] Butler correctly notes that the public notice of petitioners' counterproposal was given one day after the deadline for filing reply comments in the proceeding. Butler argues that this lack of notice requires our consideration of the "counter" counterproposal. However, this failure is irrelevant to our consideration of a second counterproposal. As explained above, the Commission does not accept counterproposals to a counterproposal, whether filed in a timely manner or not. Thus, Butler's argument must fail.

[4] Population figures are taken from the 1980 U.S. Census.

[5] In BC Docket 82-194, mutually exclusive assignments to Monterey or Byrdstown, Tennessee, were proposed. Both of these proposals required the substitution of Channel 298 for Channel 297 at Lebanon. However, because neither the Monterey nor the Byrdstown proponent offered to reimburse Station WUSW for the required channel change, neither assignment was finalized. *Monterey, Byrdstown, and Lebanon, Tennessee*, 47 FR. , published , 1982.

[6] Because the channel substitution at Lebanon could facilitate a new assignment at either Monterey or Byrdstown, Tennessee, future petitioners for those cities should be aware that, should Channel 296A ultimately be assigned to either city, the permittee of that channel will be expected to share in the reimbursement of Station WUSW. *Id.*

Smiths Grove will provide that community with its first local aural service, and petitioners indicate that they will apply for the channel. Further, assigning Channel 296A obviates the need to pursue the channel substitutions and transmitter relocations at Jamestown and Columbia, Kentucky. Therefore, it appears that the public interest will be served by making the assignment to Smiths Grove and the related substitution at Lebanon, Tennessee.

7. Accordingly, it is ordered, That effective November 1, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the following communities as follows:

City	Channel No.
Smiths Gove, Ky	296A
Lebanon, Tenn	298

8. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station WUSW, Lebanon, Tennessee, is modified to specify operation on Channel 298 subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

9. It is further ordered, That the petition for rule making filed by Butler County Broadcasting Company, Inc., is dismissed.

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

11. It is further ordered, That the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this *Order* to Larry D. Perry, Counselor at Law, 101 East Tennessee Avenue, Oak Ridge, Tennessee 37830, the attorney for Triplett Broadcasting of Tennessee, Inc., licensee of Station WUSW, Lebanon, Tennessee.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25251 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-917; RM-3838]

Radio Broadcast Services; FM Broadcast Station in Brewer, Maine; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C Channel 293 to Brewer, Maine, as its second FM allocation, in response to a proposal filed by Stone Communications, Inc., but denies its request for modification of license to specify operation on that channel in light of another expression of interest.

DATE: Effective November 1, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 20, 1982.

Released: September 3, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Brewer, Maine); BC Docket No. 81-917, RM-3838; report and order (Proceeding Terminated).

1. Before the Commission is a Notice of Proposed Rule Making, 47 FR 2136, published January 14, 1982, proposing the substitution of Class C FM Channel 293 [1] for Channel 265A at Brewer and modification of the license of Station WGUY-FM, Brewer, to specify operation on Channel 293. The *Notice* was issued in response to a petition filed by Stone Communications, Inc. ("petitioner"), licensee of Station WGUY-FM. Comments were filed by petitioner as well as Radio St. Albans, Inc. ("St. Albans"), licensee of Stations WWSR (AM) and WLFE (FM), St. Albans, Vermont, by Acton Corporation ("Acton"), and by Penobscot Broadcasting Corp. ("Penobscot"), licensee of Station WPBC-FM, Bangor, Maine. Petitioner filed a reply.

2. Brewer, located in Penobscot County, is approximately 96 kilometers (60 miles) northeast of Augusta, Maine, and is adjacent to Bangor, Maine. Brewer currently is served by FM Station WGUY-FM (Channel 265A), which is licensed to the petitioner.

3. The instant proposal was filed prior to the Commission's adoption of the *Second Report and Order* in BC Docket No. 80-130 regarding *Revisions of FM Assignment Policies and Procedures*, 47 FR 26624, published June 21, 1982, which eliminated many of the previous policy considerations involved herein such as preclusion, intermixture and appropriate class of channel. Accordingly, in reviewing the various comments and responses thereto, we will elaborate only on those portions relevant to our revised FM policies. See, *Second Report and Order, supra.*

4. The *Notice* proposed the substitution of Class C Channel 293 for Channel 265A at Brewer, Maine, and modification of the license of Station WGUY-FM, Brewer, to specify operation on Channel 293. It also indicated that in accordance with prior Commission precedent, as established in Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976), should another interest in the proposed assignment be expressed, the modification could not be made and the channel, if assigned, would be open to competing applications.

5. In response to the Notice, Acton filed comments stating its intent to submit either on its own behalf or in the name of a wholly-owned subsidiary, an application to construct an FM station on Channel 293, if assigned to Brewer.

6. In its comments, St. Albans advocated support of the proposed Class C channel substitution and modification of license of WGUY-FM at Brewer. Concurrently, it urges that the Class A channel be retained in the area to provide valuable local service in the public interest. More specifically, it suggests that Channel 265A be reassigned to Bangor or, alternatively, retained in Brewer. In either event, it expressed its interest and intention to apply for Channel 265A at whichever location the Commission may determine warrants the assignment.

[1] Although the city of Brewer itself is located in an area of the country in which Class C channels are not permitted, the restricted transmitter site specified *infra*, is in an area which permits Class C channels. See §§ 73.202(a) and 73.205 of the Commission's Rules.

7. In response to Acton's comments, petitioner, while questioning that party's true intent, also indicates its skepticism regarding St. Albans' qualifications and ability to acquire the Class C channel. Further, petitioner asserts that it is doubtful that Acton could acquire an appropriate site in Zone II to accommodate its proposal.

8. Petitioner indicates in response to St. Albans' comments that since it has a construction permit to change its commonly-owned AM station's city of license from Bangor to Brewer, and is presently operating WGUY-FM as a Brewer station, such factors should preclude either location from obtaining Channel 265A. Rather, it suggests that the channel should be reassigned to Dexter Center, Hampden Compact, or any other community that is presently devoid of a local FM assignment.

9. In combined reply comments, Penobscot asserts that none of the parties have provided justification for their proposals. It claims that petitioner's request to reassign Channel 265A from Brewer to an unserved community is completely unsupported. Likewise, it opposes St. Albans' suggestion regarding reassignment of Channel 265A to Bangor. It appears that its comments are related to its concern that if the Class A is reassigned to Bangor, it would result in a competitive imbalance in its community, while the less populous city of Brewer would benefit from a noncompetitive Class C assignment. Additionally, while acknowledging that questions regarding the intended city of service are misplaced here, Penobscot emphasizes that petitioner's current proposal is in stark contrast to its past history concerning its unsuccessful attempts to secure an FM channel at Bangor. It reinforces this claim by focusing on the fact that although petitioner's FM station is licensed to Brewer, it has been operating the main studio with that of its commonly-owned AM station in Bangor. Thus, Penobscot concludes that petitioner's intent is to serve Bangor since it is the central city and largest community in the region.

10. Although petitioner's reply comments do not clearly establish its objections to St. Albans' proposal, we assume it is referring to such factors as intermixture or assignment limitations based on population criteria. In either event, neither consideration is appropriate now in view of our new FM policies. Further, petitioner's suggestion that the Class A channel be reassigned from Brewer to any one of several communities currently devoid of a local FM assignment is inappropriate since preclusion is also no longer a factor in our assignment determinations. Furthermore, we do not have a commitment from any party that Channel 265A would be utilized at any other community.

11. To the extent Penobscot asserts that a Class C channel is not justified for a community of Brewer's size, it should be noted that pursuant to our revised FM policies, we no longer relate the choice of a channel based on community size. If its concern is fear of economic injury, that matter may be considered at the application level. See, *Rome, New York*, 42 R.R. 2d 618 (1978); *Healdsburg, California*, 52 F.C.C. 2d 244 (1975); and *Beaverton, Michigan*, 44 R.R. 2d 55 (1978).

12. As Penobscot acknowledges, its concern relative to petitioner's intended city of service is not an appropriate matter for resolution at the rule making level since none of the relevant factors about the actual use of the channel are available. Our new FM policy revisions determined that it is inappropriate to question the intended community of assignment in the rule making process. Thus, finding no policy objections to the proposal, we shall grant the assignment in order to provide expanded coverage over a large, relatively under-served area.

13. Although petitioner questioned Actons motives in displaying an interest in Channel 293 and expressed its doubt that an available site could be located to accommodate the proposal, the limitations inherent in a rulemaking proceeding bar resolving the legitimacy of Acton's interest. See, *Ft. Smith, Arkansas, and Poteau, Oklahoma*, 47 FR 23189, published May 27, 1982. Moreover, a prospective applicant's good faith intentions are generally assumed in a rule making proceeding. The *Cheyenne*[2] procedure employed here is our method of complying with the *Ashbacker*[3] mandate to permit the opportunity to file an application for each new assignment. *Cheyenne* held that the opportunity for other expressions of interest can be given through the comment period in a rule making proceeding. Otherwise, in every new case, the new assignment would have to be made available for the filing of applications. Since most station owners would not chance losing their license or being at a competitive disadvantage in order to upgrade their facility, the alternative of withdrawing their proposal is given, if another interest is expressed. If a petitioner is permitted to raise a question regarding the legitimacy of another interest each time, the *Cheyenne* procedure could not be maintained. For this reason, the alternative of prosecuting such matters at the application stage is offered. At that time, all mutually exclusive applications will be given a comparative analysis to determine which applicant is the best qualified to render service in the public interest. See, *Fort Smith, Arkansas*, and *Poteau, Oklahoma, supra*. In view of Acton's expression of interest in the proposed Class C channel at Brewer, the requested modification cannot be made and petitioner's request must be denied to that extent. See, *Cheyenne, Wyoming, supra*. We have retained the petitioner's channel for its use. Should petitioner be successful in obtaining the Class C channel, its Class A channel would be available for application. An interest in the Class A channel has been expressed. See paragraph 6, *supra*.

14. In order to operate as a Class C station on Channel 293 to serve Brewer, which is located in Zone I, the nearest location thereto in which a transmitter could be sited is 14.2 miles north of the community, in an area above the boundary line demarcating Zones I and II.

15. Canadian concurrence in the assignment has been obtained.

16. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective November 1, 1982, the FM Table of Assignments, section 73.202(b) of the Rules, is amended with regard to Brewer, Maine, as follows:

City	Channel No.
Brewer, Maine	265A, 293

17. It is further ordered, That the petition of Stone Communications, Inc., insofar as it requests the modification of its license to specify operation on Channel 293 in lieu of Channel 265A and the deletion of Channel 265A at Brewer, Maine, is denied.

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

19. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

[2] See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

[3] See also, *Ashbacker Radio Corp. v. F.C.C.* 326 U.S. 327 (1945).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25246 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-248; RM-4063]

Radio Broadcast Services; FM Broadcast Station in Bastrop, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a first FM channel to Bastrop, Texas, in response to a petition filed by East Texas Wireless Radio.

DATE: Effective November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (200) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 31, 1982.

Released: September 8, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bastrop, Texas); BC Docket No. 82-248, RM-4063; *report and order* (Proceeding Terminated).

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 20163, published May 11, 1982, proposing to assign Channel 296A to Bastrop, Texas, as its first FM allocation. The Notice was issued in response to a petition filed by East Texas Wireless Radio ("petitioner"). Petitioner filed supporting comments. No oppositions were received.

2. In its comments the petitioner incorporated by reference the information in the Notice which demonstrated the need for a first FM assignment to Bastrop. Petitioner also reiterated its intention to apply for Channel 296A, if assigned.

3. After considering the proposal, the Commission is persuaded that the public interest would be served by granting the requested assignment in order to provide Bastrop with a first FM service. The channel can be assigned in compliance with the minimum distance separation requirements.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective November 10, 1982, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Bastrop, Texas	296A

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

6. For further information concerning the above, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25249 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-289; RM-4089]

Radio Broadcast Services; FM Broadcast Station in Jacksonville, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a second FM channel to Jacksonville, Texas, in response to a petition filed by George E. Gunter.

DATE: Effective November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 1, 1982.

Released: September 8, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Jacksonville, Texas); BC Docket No. 82-289, RM-4089; report and order (Proceeding Terminated).

1. The Commission has under consideration the Notice of Proposed Rule Making, 47 FR 24613, published June 7, 1982, which proposed the assignment of Channel 272A to Jacksonville, Texas, as that community's second FM assignment, in response to a petition filed by George E. Gunter ("petitioner"). Supporting comments were filed by the petitioner in which it reaffirmed its intention to apply for the channel, if assigned. Opposing comments were filed by Center Broadcasting Company, Inc. ("Center"), licensee of FM Station KLCR (Channel 272A) at Center, Texas, to which the petitioner responded.

2. The instant proposal was filed prior to the Commission's adoption of the *Second Report and Order* in BC Docket No. 80-130 regarding *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), which eliminated previous policy considerations involved herein such as intermixture, and preclusion. Accordingly, in reviewing the opposition comments and response thereto, we will consider only those portions relevant to our revised FM policies.

3. In opposition comments, Center asserts that the proposed assignment of Channel 272A to Jacksonville would contravene the Commission's minimum distance separation requirements. Specifically, it contends that the proposed assignment would result in co-channel short-spacing to its existing FM Station KLCR in Center, Texas, as well as to first adjacent Channels 271 and 273 licensed to FM Stations KHBR, Hillsboro and KTXQ, Fort Worth, Texas, respectively. Moreover, it asserts that petitioner has not established a sufficient basis for seeking waiver of the minimum mileage requirements.

4. In response to Center's opposition, petitioner disputes its claim alleging short-spacing problems. According to petitioner, an engineering study reveals that the minimum distance separation requirements would be fully met by locating the transmitter for its proposal at a site 2 miles west of Jacksonville. Thus, petitioner states that since its proposal will comply with § 73.207 of the Commission's Rules, a waiver request is not necessary.

5. Our staff engineering study confirms that a transmitter site located 2 miles west of Jacksonville will meet all relevant spacing requirements. Thus, finding no policy objections to the proposal, we believe the public interest would be served by granting the assignment which will bring a first competitive outlet to Jacksonville.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered

That effective November 10, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Jacksonville, Texas, as follows:

City	Channel No.
Jacksonville, Texas	272A, 293

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

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25248 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Radio Broadcast Services; FM Broadcast Stations in Powell and Riverton, Wyoming; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On the Commission's own motion, this action substitutes FM Channel 223 for Channel 225 at Powell, Wyoming, and modifies the license of Station KPCQ, Powell, to specify operation on Channel 223. Also, Channel 226 is substituted for Channel 222 at Riverton, Wyoming. These actions will eliminate harmful interference to two-way services operating in the vicinity of Station KPCQ's transmitter.

DATE: Effective September 7, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: August 26, 1982.

Released: September 7, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Powell and Riverton, Wyoming); BC Docket No. 32026; memorandum opinion and order (Proceeding Terminated).

1. A matter of some urgency which demands expeditious treatment has come to the attention of the Commission. Station KPCQ (Channel 225), Powell, Wyoming, and Station KTAG (Channel 250), Cody, Wyoming, both transmit from Cedar Mountain near Cody. These operations are causing cross modulation interference which is affecting various two-way transmission services operating on or near Cedar Mountain. Approximately 100 two-way operators are affected, including the local school district and the civil defense message center. According to the licensee of Station KPCQ, Camdeck Corporation, the station has attempted to alleviate the problem through the use of filters and by decreasing the station's effective radiated power,[1] but these measures have had little effect. The Commission has received several complaints from the two-way radio users in the area who request that the interference problem be alleviated. Particular urgency is expressed by the superintendent of the Cody public school system who states that the safety of its students traveling via bus depends on the proper operation of its two-way communications network.

2. Tests performed by Camdeck's consulting engineers indicate that both Station KPCQ and Station KTAG are operating properly. The consultant concludes, and our engineers concur, that the only viable solution to the problem, other than forcing one of the stations off the air, is to change the operating frequency of one of the stations to eliminate the 5 MHz separation between the stations. Tests conducted at the site indicate that the interference disappears when the frequency of Station KPCQ is shifted to a channel other than Channel 225. Accordingly, on our own motion, we are substituting Channel 223 for Channel 225 at Powell, Wyoming, and modifying the license of Station KPCQ to specify operation on the new channel. We have chosen Channel 223 because it should allow Camdeck to change frequencies with a minimum of service disruption and expense. The shift from Channel 225 to Channel 223 can also be done quite expeditiously by merely retuning the present transmitter. The change in channels must be accomplished quickly in order to assure the proper operation of the school system's two-way radio network before the beginning of the new school term.

3. The assignment of Channel 223 to Powell requires a channel substitution for Channel 222 at Riverton, Wyoming. Channel 222 is presently unused and unapplied for, although we are aware of an interest in its use because it was only recently assigned.[2] Channel 222 was requested for Riverton because it could be used at a television transmitter site approximately 31 miles north of Riverton. Therefore, in seeking a replacement for Channel 222 we have chosen a channel which meets all applicable mileage separation requirements at both the city coordinates for Riverton and the coordinates for the transmitter site north of the community. Accordingly, we shall substitute Channel 226 for Channel 222 at Riverton.

4. Due to the importance of resolving the Cedar Mountain interference problems as quickly as possible, we are making these channel substitutions without first seeking public comment. The provision of the Administrative Procedure Act governing rule making, 5 U.S.C. 553, provides that general notices of proposed rule making and an opportunity for public comment are not required when the agency for good cause finds that notice is impracticable, unnecessary, or contrary to the public interest. *See also* § 1.412(c) of the Commission's Rules. Because this matter requires expeditious treatment, we believe that a prolonged rule making proceeding would be contrary to the public interest. As noted in paragraph one, above, the interference is affecting two-way communications affecting safety of life and property. Also, the actions taken are calculated to cause the least inconvenience to the interested parties and the listening public. Given all of these considerations, we believe the public interest is best served by immediately making the channel substitutions and thereby eliminating the potentially harmful interference present in the area. For essentially the same reasons, we believe good cause exists to make these changes effective as soon as possible. These revisions are intended to alleviate a potentially hazardous situation, and it would be contrary to the public interest not to take such action at the earliest possible date. *Emergency Broadcast Operating Requirements,* 12 F.C.C. 2d 877 (1968); *Elimination of Harmful Interference,* 88 F.C.C. 2d 803 (1981), *recon. denied,* Mimeo No. 31758, adopted July 29, 1982. Therefore, good cause having been shown, these rule changes shall become effective immediately. *See* 4 U.S.C. 553(d)(3) and § 1.427(b) of the Commission's Rules.

5. Accordingly, it is ordered, That effective immediately, the FM Table of Assignments, § 73.202(b) of the

[1] The Commission granted Station KCPQ authority to transmit at reduced power on June 7, 1982.

[2] *Riverton, Wyoming,* 47 FR 32718, published July 29, 1982.

Commission's Rules, is amended with respect to the following communities:

City	Channel No.
Powell, Wyoming	223, 281
Riverton, Wyoming	226, 230

6. It is further ordered, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station KPCQ, Powell, Wyoming, is modified to specify operation on Channel 223 subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

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

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25244 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

The Fishermen's Protective Act Procedures Provisions for Fees

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rulemaking.

SUMMARY: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980) authorizes the collection of fees from vessel owners entering into agreements under Section 7. These fees are used for a vessel seizure compensation program. This amendment will establish fees for the agreement year October 1, 1982, through September 30, 1983.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone Number (202) 634-7496.

SUPPLEMENTARY INFORMATION: Section 7 compensates the owners of United States flag commercial fishing vessels for certain losses resulting from a foreign country's seizure of a United States fishing vessel based on territorial oceanic rights which, for a variety of reasons, are not recognized by the United States.

Amendments of the Section 7 rules established annual fees based on past and projected experience.

All holders of agreements for the present agreement year ending September 30, 1982, who wish them extended through September 30, 1983, by amendment (rather than entering into an entirely new agreement) must submit the fees required by the following amendment. Failure to do so will result in agreement termination October 1, 1982.

Program fees are established in accordance with Section 7 and Administration policy. Section 7 requires that fees be adequate to cover program administrative costs and at least 25 percent of claims. The goal of Administration policy on user fees is to fund program costs, to the maximum extent possible, through these fees. Fiscal year 1982 claims disbursements will total $2.4 million, of which 74 percent will be paid from user fees. Fiscal year 1983 claims activity is expected to continue at the same level as fiscal year 1982. Maintaining the fiscal year 1983 fee at the current level of $16 per gross vessel ton would provide $2 million in fee income which, when added to the $0.3 million in fees remaining in the Fund at the close of fiscal year 1982, would result in $2.3 million for claims and administration in fiscal year 1983. Since $2.3 million in fees would fund nearly 100 percent of anticipated claims, as well as the program's administrative costs, the fiscal year 1983 fee will remain at $16 per gross vessel ton.

The Agency has reviewed this final rulemaking in accordance with the specifications of Executive Order 12291 and determined that it is not a major rule since it has no effect on the economy, costs, prices, and no impact on competition, employment, investment, or productivity. Accordingly, no regulatory impact analysis is required. Because this final rulemaking relates to benefits, it is exempt from the notice and comment provisions of the Administrative Procedure Act and the Regulatory Flexibility Act. The collection of information from applicants for guarantee agreements has been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980. This rule does not require the collection of any additional information and does not increase the Federal paperwork burden for individuals, small businesses, or other persons under the Paperwork Reduction Act of 1980.

The Administrator of the National Oceanic and Atmospheric Administration has certified that this rule will not have a significant economic impact on a substantial number of small entities. The Assistant Administrator has also determined that this rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

List of Subjects in 50 CFR Part 258

Administrative practice and procedure, Claims, Fisheries, Fishing vessels, Penalties, Seizures and forfeitures.

Dated: August 30, 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

Accordingly, § 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is revised to read as follows:

§ 258.5 Fees.

(a) Fees must pay administrative costs and a minimum of at least 25 percent of estimated claim payments. Fees are based on past and projected experience. Fees may be adjusted by amending this part. Fund experience supports continuance of the fee at $16 per gross vessel ton.

(b) Fees to be paid by an applicant for guarantee agreements for the agreement year October 1, 1982, through September 30, 1983, shall be $16 per gross vessel ton as listed on the vessel's document. Fractions of a ton shall not be included.

(c) No fees will be returned after a guarantee agreement is executed by the Secretary.

(d) A guarantee agreement may, with the Secretary's consent, be assigned to a

new owner of a vessel if the vessel is transferred during the period in which the agreement is in force.

(e) All holders of agreements for the present agreement year ending September 30, 1982, who wish them extended through September 30, 1983, by amendment (rather than entering into an entirely new agreement) must submit their fees not later than October 1, 1982. Those not submitting fees by October 1, 1982, will be required to enter a new agreement which will be effective only from the date the fees are received.

(22 U.S.C. 1971–1980)

[FR Doc. 82-25161 Filed 9-13-82; 8:45 am]

BILLING CODE 3510-22-M

---

50 CFR Part 611

[Docket No. 2901-174]

Foreign Fishing

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement a portion of Amendment 2 to the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks. The regulation closes one area of the Atlantic Ocean to foreign longlining for species other than sharks, from June through November. The intended effects of this regulation are to reduce gear conflicts between U.S. and foreign fishermen, to alleviate foreign preemption of the fishing grounds, and to increase the availability of billfishes to U.S. fishermen.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Donald J. Leedy, Plan Review Division, F/CM6, 3300 Whitehaven St N.W., Washington D.C. 20235, Phone: 202-634-7449.

SUPPLEMENTARY INFORMATION:

Background

The Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) approved Amendment 2 to the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks (PMP) on July 7, 1982. The amendment was made available to the public on August 4, 1982 (47 FR 33722), and comments were requested on a proposed rule to implement it. The preamble to the proposed rule discussed the basis of this action. Comments were received for 15 days through August 19, on § 611.60 and § 611.61(b) of the proposed regulations. Comments on the rest of the proposed rule should be submitted by October 4, 1982.

Sections 611.60 and 611.61(b) would close, from June 1 through November 30, an area of the Atlantic north of Cape Lookout to certain foreign longlining vessels. As a result of comments received on the proposed closure, the regulation is clarified to prohibit foreign tuna longline gear from drifting into the closed area. No other changes are made.

This action exemplifies the complexity of determining the appropriate management measures for controlling the incidental catches of billfishes in the foreign tuna longline fishery, when management of the tuna fishery is outside the scope of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Foreign and domestic fisheries are pursuing their legitimate interests in the same space and time within the fishery conservation zone (FCZ).

In approving the amendment to the PMP, the Assistant Administrator balanced (1) the need to minimize conflicts and enhance fishing opportunities for U.S. fishermen off the mid-Atlantic and New England coasts, and (2) the need to provide a reasonable opportunity for foreign nations to fish for tunas in the FCZ off the Atlantic coast.

While preferring that problems among competing fishery interests be resolved through voluntary agreements, the Assistant Administrator concluded that the proposed action is necessary to reduce conflicts in a specific area of the FCZ. The voluntary agreements applicable to this area have not allowed an adequate level of economic and social benefits to the Nation from the billfish, red crab, lobster, and tilefish resources as intended under the Magnuson Act. The seasonal closure will resolve many problems for the domestic fisheries operating within the area with minimal, but necessary, impediments to foreign longline tuna fisheries.

Comments

NOAA held five public hearings during the initial comment period, and received seven written comments on the proposed closure.

1. *Comments by foreign parties.* Written comments were received from the Japan Fisheries Association, the Federation of Japan Tuna Fisheries Cooperative Associations, and the Government of Japan. Also, representatives of the Japan Fisheries Association testified at two public hearings.

The comments pertaining to the closure and NOAA's responses are summarized below.

A. The proposed regulations are not authorized under the Magnuson Act.

Response—The Magnuson Act (Section 201(h)) authorizes the Secretary of Commerce (Secretary) to prepare and promulgate regulations implementing conservation and management measures pertaining to foreign fishing in the FCZ, except for highly migratory species of tunas (Section 103). Billfishes are subject to U.S. management authority under the Magnuson Act. Therefore, foreign fishing in the FCZ that results in the catching, taking, or harvesting of billfishes in the FCZ is subject to the authority of the Magnuson Act, even if such fishing is directed at tunas.

B. The closure is not authorized under the Magnuson Act because it is not necessary to prevent irreversible effects from overfishing.

Response—Prevention of irreversible effects from overfishing is but one of several factors considered in preparing a PMP. While it is true that Section 201(h)(4) allows management measures in relation to PMPs "to the extent necessary to prevent irreversible effects from overfishing," the remainder of the paragraph broadens the scope of PMP contents. Management measures contained in a PMP are those "necessary and appropriate" for conservation and management of the fishery (Section 201(h)(4)(A)). They must be consistent with the national standards and other provisions of the Magnuson Act (Section 201(h)(4)(B)). The full panoply of fishery management plan (FMP) measures, except for limited entry provisions, is available for inclusion in a PMP (Section 201(h)(4)(C)). In the absence of a fishery management plan which governs both domestic and foreign fishing, NOAA believes it is the intent of the Magnuson Act to apply sound management measures to foreign fisheries to maintain fishery resources in the FCZ so that the full potential of the resources may be realized. For these wide-ranging resources (e.g., marlins, swordfish) that are not currently subject to international management measures, NOAA would be remiss in failing to act to achieve the optimum yield that will provide the greatest overall benefit to the United States.

C. The proposed regulation is unnecessary because the Japanese tuna industry voluntarily imposed restrictions upon its longline fishermen in an effort to accommodate U.S. recreational and commercial fishermen.

Response—NOAA recognizes the voluntary restrictions applying to the Japanese longline tuna fishery in the FCZ off the Atlantic coast, including the Gulf of Mexico. Cessation of Japanese fishing operations for yellowfin tuna in the Gulf of Mexico has successfully eliminated conflicts between U.S. and Japanese vessels. Because of this success, NOAA finds no present need to implement regulations to close areas in the Gulf of Mexico.

Based on information provided by the U.S. recreational and commercial billfish industry, and State and Federal officials, NOAA finds that the voluntary agreement in the FCZ off the Atlantic coast has not been effective in minimizing conflict between U.S. and Japanese vessels in 1982. Recent reports of gear conflicts in the closed area are summarized in Table 1.

TABLE 1.—GEAR CONFLICTS INVOLVING DOMESTIC AND JAPANESE LONGLINE FISHING VESSELS [1]

Date	Reporting vessel	Japanese Longliner (JAPLL) involved	Location		Gear lost	Preventable by closure	
			Latitude	Longitude		Yes	No
1982:							
July 3	Ganchen Too	JAPLL	40°00'N	68°42'W [2]	None gear entanglement	X	
July 18	Linda Marie	JAPLL	(4)	(4)	Unknown gear lost	X	
July 18	Sea Dog V	JAPLL	(4)	(4)	Unknown gear lost	X	
August 4	JAPLL	JAPLL Unknown USLL	39°52'N	69°58'W	Gear entanglement, JAPLL-lost light buoy and four floats.	X	
August 7	JAPLL	JAPLL Unknown USLL	39°53'N	69°43'W	Gear entanglement	X	
August 9	JAPLL	JAPLL Unknown USLL	39°53'N	70°04'W	Gear entanglement	X	
August 10	JAPLL	JAPLL Unknown USLL	39°51'N	69°42'W	Gear entanglement	X	
August 13	JAPLL	JAPLL Unknown U.S. Trapper	39°22'N	72°05'W	Gear entanglement with U.S. Fixed Gear. [3]	X	
Total						8	0

Source: U.S. Coast Guard, Governor's Island, NY.
[1] On July 1, 1982, Japanese resumed tuna longline fishing within the FCZ.
[2] Coordinates are located in area that Japanese industry voluntarily agreed would be closed to Japanese longlines from June 1 through August 31.
[3] Coordinates were reported to the U.S. Coast Guard when the gear was set. The Coast Guard broadcast the location of this gear to all vessels.
[4] Just beyond 1,000 fathom curve—Southeast edge of Georges Bank.

D. The proposed area closure is discriminatory because the area would be closed to foreign tuna longliners, but open to foreign longliners fishing for sharks and U.S. longliners fishing for swordfish.

Response—The Magnuson Act does not provide authority to the Secretary to manage domestic fishing under a PMP. FMPs for Atlantic billfishes and tilefish are being prepared by Regional Fishery Management Councils which, if approved by the Secretary and implemented, will address domestic fishing for those species.

Foreign longlining for sharks is conducted with bottom longline gear at offshore locations with little likelihood of either conflict with U.S. fishermen or substantial incidental catches of billfishes. NOAA concludes that it is unnecessary to impose the same restrictions on the foreign shark fishery, which does not cause the problems inherent to the use of pelagic tuna longline gear.

E. There is no evidence that the gear and space conflicts alleged by the National Marine Fisheries Service (NMFS) have any significant impact on the ability of U.S. fishermen to catch billfishes.

Response—The PMP contains evidence of conflicts between Japanese longline vessels and U.S. swordfish, crab, and lobster vessels during the period 1978–1981. Information received during the preparation of the PMP amendment indicated that many more conflicts had occurred than were formally reported. Therefore, five public hearings were held during the 15-day comment period to supplement the administrative record.

Testimony at the hearings held on August 11, 12, 17, and 18 indicated that the results of these conflicts are damage to and loss of domestic gear and associated catches, and preemption of preferred fishing grounds. U.S. fishermen are forced to shift to less productive or more distant fishing grounds or, in some instances, to cease fishing until Japanese longliners have left the local fishing grounds.

Also, intensive foreign longline fishing is believed to reduce the average size and catch rate of swordfish within the area of the intensive fishing.

F. The optimum yield figures used by NMFS in the PMP are arbitrary and capricious and not based on the best scientific information available.

Response—The optimum yields of blue marlin, white marlin, and swordfish are based on maximum sustainable yields for the applicable stocks. The optimum yields for sailfish and longbill spearfish are based on 1980 foreign catches and U.S. landings because the data are inadequate to support an estimate of maximum sustainable yield. The 1980 reported catch data represent the best scientific information available on the overall catches of these species. Thus, the optimum yield figures have taken into account billfish fishing mortality by Japanese tuna longliners.

The total allowable level of foreign fishing (TALFF) for billfishes is zero under the PMP, because domestic fishermen have the capacity and intent to harvest of optimum yields for billfishes.

G. There is as present no scientific justification for protecting the billfish resource.

Response—The PMP presents the view of NOAA that, throughout their range, blue marlin appear to be overfished, white marlin and swordfish may be fully used, and sailfish and spearfish stocks show no signs of biological stress. The International Commission for the Conservation of Atlantic Tunas (ICCAT) is authorized to recommend management measures for Atlantic billfishes, but has not done so. However, its Standing Committee on Research and Statistics, in considering revised estimates of catch (Inter-sessional Billfish Workshop, June 1981), drew attention to an apparent low level of abundance of blue marlin in the Atlantic Ocean and expressed concern about increased levels of effort on white marlin because of a declining trend in catch-per-unit of effort and catch of white marlin in the Atlantic Ocean. Japanese longline data provided the basis for estimating these trends. NOAA is concerned about the future condition of these stocks, and supports continued monitoring by ICCAT. These factors provide sufficient justification for protecting billfish resources.

H. Area closures are not justified in terms of gear conflict prevention or cost/benefit ratio.

Response—This commenter calculated, from information in the PMP, that implementation of the proposed regulations would cost the U.S. government $629,804 for the first year in order to prevent damage for verified claims of $49,260 (annual average for the 1980/81 period). However, if the Atlantic II closure (i.e., this action) is considered on its own, the cost is estimated to be $274,800 for the first year for enforcement and $10,000 for monitoring, or $284,800 (12-month basis). The gear compensation fund, which is the source of reimbursement for U.S. fishermen for verified gear damage, does not reimburse fishermen for lost fishing opportunities because of grounds preemption nor for 75 percent of the economic loss resulting from an incident. The anticipated economic and social benefits from the proposed closure are believed to exceed the U.S. costs of implementing the closure. These benefits cannot be quantified, as can verified gear damage, but are substantial, as reflected in public testimony.

The same commenter suggested that the United States will lose substantial revenue, citing expenditures totaling $1.8 million during the past 12 months in New York, N.Y., and Norfolk, Virginia, for port and pilotage fees and supplies. However, the Japanese have voluntarily limited the number of their tuna longliners fishing within the Atlantic coast FCZ to 20 vessels at any one time. Therefore, the number of Japanese vessels using these facilities and services is already reduced by that fishing strategy. Japanese vessels fishing within or outside the Atlantic FCZ or transiting along the coast will continue to need services and are encouraged to use U.S. ports for such purposes.

1. The proposed regulation causes Japanese tuna longliners irreparable economic damages.

Response—The economic consequences of the reduction of the Atlantic bluefin tuna quota, in accordance with ICCAT, affects all member nations participating in the fishery, including the United States and Japan. Thus, fishing strategy by Japan's tuna longline fleets is affected by the Japanese bluefin tuna quota of 305 metric tons, as well as by the closure.

As evidenced by areas in which Japanese tuna longline vessels operate, tunas occur within the FCZ off the east coast in harvestable quantities and, at times, within the closed area. Tunas are highly migratory and their movements are influenced by ocean environmental factors (e.g., water temperature, currents). Favorable environmental conditions are not confined exclusively within the closed area; thus, tunas are expected to be substantially available (1) within the FCZ beyond the seaward boundary of the closed area during June through November; (2) within 100 miles during December through May when the area is open; and (3) in other fishing grounds in the Atlantic Ocean.

Because (1) the Japanese tuna fishery will still have an opportunity to fish within the FCZ outside the closed area and (2) the Atlantic Ocean-wide tuna fishery is subject to fluctuations of abundance on a stock and local distribution basis, NOAA disagrees with the contention that this action will result in irreparable economic damage to the Japanese tuna longline vessels.

J. The 15-day comment period provided for the proposed Atlantic Area II closure, is too short to enable the public to participate meaningfully in the rulemaking process.

Response—The 15-day public comment provided the public the opportunity for preparing meaningful comments, as evidenced by the extensive written comments received primarily from Japanese fishing interests, and the attendance at public hearings held in the affected area during the comment period.

K. Japanese commenters suggested three alternatives:

(1) Withdraw the proposed regulation.

Response—The NOAA Assistant Administrator has reviewed the basis for the proposed closure as documented in the PMP and supplemented by written comments and testimony. He concluded that NMFS has the regulatory authority, has used the best scientific information available, and is not acting in an arbitrary or capricious manner.

(2) Require four to five miles of separation between U.S. and foreign longline vessels, except when mutually agreed otherwise, to be incorporated with the voluntary agreements.

Response—A separation of four to five miles between U.S. and foreign longline vessels does not offer a feasible alternative to reduce conflict between these vessels and their associated gear. Separation of vessels alone does not ensure separation of buoyed longlines up to 70 miles in length. Local currents can tangle one part of a line with another, even though the ends of the lines are separated. Moreover, one vessel could lay its gear across another vessel's gear, if the agreement specified only a separation of the vessels.

(3) Allow Japanese tuna fishermen to: (1) Buoy dead billfishes at sea for pickup by individual U.S. fishermen or (2) retain, dress, and freeze dead billfishes and turn them all over to a designee of the U.S. government.

Response—NOAA welcomes suggestions to reduce the waste of incidentally-caught billfishes that die on the hook and, under current regulations, must be discarded from the foreign tuna vessel. However, this alternative would not alleviate conflicts resulting in gear damage and preemption of fishing grounds. Further, it would create the appearance of inequities among U.S. citizens in the availability and use of such dead billfishes.

2. *Comments by U.S. fishing representatives.*

The written and verbal comments by the U.S. public that pertain to the proposed closure and NOAA's responses are summarized below.

A. The seaward boundary of the closed area.

The U.S. comments fully supported the prohibition against longlining by foreign vessels shoreward of the proposed line, but many suggested that the prohibition should be extended to the outer boundary of the FCZ (i.e., to 200 miles). Other commenters suggested that the seaward boundary of the line be extended seaward in various ways (i.e., by 10 miles, by 30–50 miles, to trace the 1,200 fathom depth contour, by the length of a longline) to make the closure more effective. One proposal was to move point 2 and point 3, as described in § 611.61(b) of the proposed rule, about 10 miles to the south to provide an adequate buffer for domestic billfish and tilefish fishermen where productive undersea canyons are close to the line.

Response—The alternative of closing the entire Atlantic FCZ to foreign fishing activities which result in the incidental catch of billfishes was considered in preparing the amendment to the PMP. This alternative was rejected. The extension of the seaward boundary of the proposed closure from about 100 miles to 200 miles would preclude the foreign opportunity to fish for tunas in the FCZ off the mid-Atlantic and New England coasts, but would do relatively little more than the proposed action to alleviate the conflicts.

Suggestions about a buffer between the domestic fishing grounds inside the closed area and the FCZ open to foreign longline fishing reflect concerns that the drifting longline gear could be carried by ocean currents into the closed area and thus still damage U.S. gear and preempt portions of the fishing grounds. The regulations are clarified so that deployed foreign longline gear is prohibited from being within the closed area. NOAA intends that foreign longline fishermen be responsible for the movement of their deployed gear with respect to the boundary line. If

prevailing currents would carry a longline toward the closed area, the vessel operator must guard against this movement of the gear. The revised regulation thus provides an effective "buffer" between foreign longline vessels and U.S. fishing operations.

B. Close the area to foreign longlining during June through November of each year.

Testimony was received about conflicts between foreign longliners and domestic lobster fishermen in December. Extension of the closed season to offer protection for domestic swordfish longlining from mid-April through the following January was suggested.

Response—The period of closure was selected because the months of June through November represent the peak fishing season for domestic fishermen, particularly swordfish longliners and recreational fishermen. The desire of domestic commercial fishermen to have further separation between domestic and foreign gear for the full extent of their fishing season is understandable. NOAA also recognizes the need to assure a reasonable opportunity for foreign fishermen to fish for tunas within the FCZ.

Classification

NOAA prepared a regulatory impact review (RIR), incorporated within the amendment, that discussed the economic consequences and impacts of the closure regulation to implement that part of Amendment 2 to the PMP, and alternative regulatory actions. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the closure does not constitute a major rule under E.O. 12291. The RIR demonstrates that the closure complies with the requirements of Section 2 of E.O. 12291.

The closure will have a significant impact on a substantial number of small entities. The PMP governs foreign nations fishing in the FCZ, but the domestic recreational industry and commercial billfish, tuna, tilefish, lobster and red crab fisheries will benefit through anticipated increased recreational fishing success, a decrease in the preemption of fishing grounds, and a reduction in the number of international gear conflicts.

The RIR and Regulatory Flexibility Analysis (RFA) are combined with the PMP. The analysis discusses in general terms and quantifies, where possible, the impacts of the closure. The beneficial impact of the closure cannot be quantified until the season is over; however, the benefits are expected to include increased recreational fishing success, more efficient commercial fishing for small businesses, and reduced gear conflicts for small businesses. U.S. fishermen and small businesses are not expected to incur any compliance or reporting burdens.

An environmental assessment of Amendment 2 was prepared under the requirements of the National Environmental Policy Act. The environmental assessment, which concludes that the Amendment will not have a substantial environmental impact, was released for public review and filed with the Environmental Protection Agency on July 13, 1982.

This rule contains no information collection provisions, for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Japanese tuna longline fishery is currently being conducted off the Atlantic coast. The concerned public has provided testimony about the impact of this fishery on domestic commercial and recreational fisheries. The Assistant Administrator finds that this closure, if implemented immediately, would alleviate these adverse impacts during the period of this closure; this constitutes good cause to waive the 30-day delayed effectiveness period under the Administrative Procedure Act. To postpone the effective date on the final regulations until expiration of the delayed effectiveness period would allow continued damage and loss of U.S. fishing gear, preemption of fishing grounds, and loss of fishing opportunities for U.S. commercial and recreational fishermen. The effective date is delayed ten days following publication of this rule to give the effected foreign fishery the advance notice required under § 611.3(i)(1) of the foreign fishing regulations.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: September 9, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 is:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Sections 611.60 and 611.61 are amended by revising §§ 611.60(d) and 611.61(b), to read as follows:

§ 611.60 General provisions.

* * * * *

(d) *Open area.* Except for the closed areas set forth in paragraph (e) of this section, § 611.61(b) and § 611.62(b), foreign fishing authorized under this subpart may be conducted in that portion of the FCZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea.

* * * * *

§ 611.61 Atlantic billfish and sharks fishery.

* * * * *

(b) *Area and seasons.* (1) Except as provided in paragraph (b)(2) of this section, foreign fishing under this section may be conducted throughout the year. Retention of sharks will terminate when the applicable national allocation has been reached. The closure provisions of § 611.15(a)(1) through (a)(7) do not apply to this section.

(2) From June 1 through November 30, foreign vessels fishing under this section for species other than sharks, and longline gear deployed from such vessels, are prohibited in the area west and north of the line defined by the following coordinates in the order listed:

Point	North latitude	West longitude
1	41°14'30"	65°32'30".
2	40°00'00"	67°39'30".
3	39°32'00"	70°52'30".
4	37°54'00"	73°05'00".
5	34°50'00"	73°34'00".
6	34°50'00"	(Shore at 34°50'00" N. latitude.)

* * * * *

[FR Doc. 82-25194 Filed 9-9-82; 4:47 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 2907-183]

Groundfish of the Gulf of Alaska; Correction

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

ACTION: Notice of in-season adjustment; correction.

SUMMARY: This document corrects Table 1 of 50 CFR 672.20, which shows the annual optimum yield and its distribution for fish in the Gulf of Alaska, at the start of each year. A document published at 47 FR 27862 (June 28, 1982) announced certain reserve releases for Gulf of Alaska groundfish

species; it also inadvertently revised certain numbers in Table 1.

The codified Table 1 should not have been revised. Table 1 is hereby corrected to read as that published in the final rule appearing at 47 FR 23936 (June 2, 1982).

FOR FURTHER INFORMATION CONTACT:

Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907-586-7221.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting requirements.

Dated: September 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Accordingly, NOAA corrects Table 1 of 50 CFR 672.20 to read as it was published at 47 FR 23939 (June 2, 1982).

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

[FR Doc. 82-25173 Filed 9-13-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 178
Tuesday, September 14, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 180

Plant Variety Protection Board Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Plant Variety Protection Board (1) advises the Secretary concerning the adoption of rules and regulations to facilitate the proper admistration of the Act, (2) makes advisory decisions for the Secretary on appeals from the refusal of applications by the Commissioner, and (3) advises the Secretary on any other program matters.

Matters To Be Considered

(1) Report of plant variety protection functions and status.

(2) Review Plant Variety Protection (PVP) Office operations and discuss means to improve efficiency and reduce costs.

(3) Develop measures to make PVP self-funding.

(4) Consider changes in reciprocity arrangement with other countries.

(5) Consider change in regulations to conform to the International Union for the Protection of New Varieties of Plants (UPOV) by extending the eligibility period as it applies to foreign varieties.

(6) Consider changing size of the Board.

(7) Other.

This notice is required under AMS Instruction 109-1, Rev. 1.

DATE: September 28, 1982, 9:30 a.m. to 4:00 p.m.; September 29, 1982, 9:30 a.m. to 4:00 p.m.

ADDRESS: U.S. Department of Agriculture, Room 2096, South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth H. Evans, Executive Secretary, Plant Variety Protection Board, National Agricultural Library Building, Beltsville, Maryland 20705 (301/344-2518).

SUPPLEMENTARY INFORMTION: The authority for the Plant Variety Protection Board is provided under section 7 of the Plant Variety Protection Act of December 24, 1970 (84 Stat. 1542) (7 U.S.C. 2321 et seq.).

William T. Manley,
Deputy Administrator, Marketing Program Operations.

September 10, 1982.

[FR Doc. 82-25402 Filed 9-13-82; 10:55 am]
BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 225]

Food Stamp Program: Energy Assistance and Restoration of Lost Benefits

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action would amend Food Stamp Program regulations to ensure that the income and resource exclusion for State and local energy assistance is provided only for bona fide energy assistance programs. In addition, the proposed rule would limit restoration of lost benefits to a one year period, including judicial action resulting in a household's entitlement to lost benefits. These changes are called for in the Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97-98) (1981 Amendments) and are intended to reduce program costs, waste and abuse.

DATE: Comments must be received on or before November 15, 1982 to be assured of consideration in the final rulemaking process.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. and 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact Mr. O'Connor at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They will not be effective until OMB approval has been obtained.

Classification

This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major". The proposed rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. This proposed rule would not affect the business community and would not result in significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Adoption of this proposal would to some extent reduce program costs, waste and abuse by requiring more careful scrutiny of excluded State or local energy assistance.

Regulatory Flexibility Act

This proposed rule has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. The proposed changes would affect State agencies, some State and local legislatures, and a relatively small number of food stamp recipients.

Resource/Income Exclusion for Energy Assistance

Background

The first rules excluding energy assistance payments from being considered as household resources or income in the Food Stamp Program were issued on February 26, 1980. This exclusion was made necessary by the Department of Interior and Related Agencies Appropriations Act of 1979 (Pub. L. 96-126, enacted on November 27, 1979). This Act established an energy assistance allowance to be provided through the Community Services Administration. The Act stipulated that the energy assistance provided to households could not be counted as resources or income in any other publicly assisted income tested program.

Congress enacted two provisions during 1980 affecting the energy assistance exclusion. The first was in the Crude Oil and Windfall Profit Tax Act of 1980 (Pub. L. 96-223, April 20, 1980). Title III of this Act, entitled the Home Energy Assistance Act of 1980, created the Low-Income Energy Assistance Program. This Act specifically excluded increases in public assistance grants intended to meet increased home energy costs from consideration as resources or income in the Food Stamp Program. Before this exclusion could be implemented, however, the second of the 1980 energy Assistance exclusion provisions was enacted on May 26, 1980, in the Food Stamp Act Amendments of 1980. Superseding all of the earlier exclusions, the new provision excluded "any payments or allowances made under any Federal, State, or local laws for the purpose of providing energy assistance." (See section 102, Pub. L. 96-249.)

The statutory language of the 1980 Amendments clearly excludes as household income and resources any payments which are made separately and are identified as energy assistance. However, establishing an exclusion for payments which are combined with public or general assistance (PA or GA) has proven more problematic. (Under current regulations, PA means Aid to Families with Dependant Children, and GA means any cash assistance financed by State or local funds.) The legislative record on the 1980 Amendments shows that Congress was aware of this problem. In House of Representative Report No. 96-788 (p. 123), the House Agriculture Committee stated that, "Where energy assistance provided through the use, in part or in total, of Federal, State, or local funds flowing from Federal, State, or local laws not specifically dealing with energy assistance is concerned, such as Aid to Families with Dependent Children or General Assistance, the Committee also intends to guarantee excludability provided the Department is satisfied that the increase in benefits awarded by the State or local government (either on a matching basis with the Federal Government or on its own) is, in fact, an energy assistance-related increase and not simply a general welfare increase that would have occurred even were energy costs not a factor and that, therefore, should be viewed as income for food stamp purposes."

In implementing the exclusion, the Department's policy has been that when energy assistance payments are commingled with other grant payments, they are excludable only to the extent that the energy assistance is truly energy cost-related. However, the rules have not clearly stated the criteria to be considered in deciding excludability. As a result, there has been some confusion among State agencies regarding the exclusion. With these problems in mind, Congress enacted new energy assistance provisions in the 1981 food stamp amendments, Sec. 1306, 95 Stat. 1283, December 22, 1981 (Pub. L. 97-98).

Proposed Changes

Section 1306 of the 1981 amendments revised the provisions for excluding energy assistance in two ways. Both of these changes affect only State and local energy assistance. The first change incorporates into the statute the existing regulatory requirement that State and local energy assistance must be designated as such in State or local law to qualify for the exclusion. The second statutory change provides that the Secretary must be satisfied that State or local energy assistance payments are calculated on the basis of seasonal need over an aggregate period not to exceed six months. For example, energy assistance calculated to help meet energy costs for four winter months and two summer months, or for six winter months, would qualify for the exclusion. In addition, the 1981 amendments specifically allow that the payments or allowances (including tax credits) do not have to be paid out on a seasonal basis if it would be impractical to do so. State and local agencies may average their energy assistance payments through the year, even though the assistance levels must be calculated based on seasonal energy needs.

This proposed rule would implement the 1982 amendments and clarify the Department's policy regarding the treatment of energy assistance which is combined with other assistance payments. The following discussion explains the proposed changes.

The proposed rule would stipulate that State or local energy assistance which is to be excluded must be clearly identified in State or local law. State legislatures or local government councils could make such designations in various ways. They may designate a specific amount of energy assistance per household, or authorize appropriation of a specific amount for energy assistance. They also may comply by designating in law the method to be used in computing the amount of energy assistance to be provided to needy households. Excluded energy assistance may be in the form of payments, allowances, or tax credits. However the designation is made, it would have to state explicitly that the assistance is being provided to help households meet their energy needs.

The proposed rule also would provide that State or local energy assistance which is to be excluded must be calculated as if it will be provided on a seasonal basis for a period not be exceed an aggregrate of six months. State agencies may calculate their energy assistance levels for different seasons during the year, as long as the aggregate period the assistance is intended to cover is six months or less. However, the proposed rule would allow exclusion of energy assistance payments which are averaged and made over a longer period because it would be administratively impractical to make payments on a seasonal basis.

To demonstrate compliance with these requirements, the State agency would be required to submit to FNS documentation of the method of calculation of energy assistance levels. This requirement reflects the clear intent of Congress as stated by Congressman Richmond, the manager of the 1981 amendments in the House of Representatives, when he presented the conference report for the 1981 amendments. He said, "Thus, the State or local government would have to demonstrate by reference to studies, reports, and the like that it made a good faith effort to evaluate a typical household's increased energy utility needs during a period or periods of six months or less in the calendar year and developed the energy assistance 'payment' or 'allowance' in light of such analysis." (See 127 Cong. Rec. H. 9878, December 16, 1981.) Prior to excluding any State or local energy assistance, the State agency would have to satisfy FNS that such "good faith efforts" have been made.

The proposed provisions described above would implement the energy

assistance provision of the 1981 amendments. In making these amendments, Congress intended to ensure that the exclusion is limited to bona fide energy assistance. The amendments were designed in part, to close a loophole left open by earlier provisions. Under the earlier provisions, State agencies could have allowed the exclusion of portions of their PA or GA grants simply by improperly using the energy assistance designation. For example, a State or local agency could designate a large portion of its existing general assistance grants as energy assistance. Because this would exclude a large portion of the grants from being counted as income, it would cause a significant, perhaps unjustified, increase in food stamp benefits. In doing this, the State or local agency would not actually provide increased assistance to households for their energy costs, yet it would shift higher costs to the federal government. The two new statutory provisions should help to close this loophole.

The legislative record clearly indicates that Congress also intends that a "purpose test" be applied to ensure that the exclusion is provided only for bona fide energy assistance. This test is to be used to ascertain whether or not the State or local assistance to be excluded actually has been established for the specific purpose of helping households to meet increasing home energy costs. The purpose test is of particular value in assessing energy assitance which is provided in combination with other assistance payments.

The concept of the purpose test is not new to the program. Since implmentation of the energy assistance exclusion of the Food Stamp Act Amendments of 1980, the FNS policy has been that State and local energy assistance must pass the purpose test. When Congressman Richmond presented the conference report, he stated, "with respect to State or local payments, the purpose test of May 1980 continues to govern. * * *" While the purpose test has been a part of program policy, it has not been explicity addressed in program regulations. This proposed rule would incorporate the purpose test policy in the regulations.

The proposed rule would require that State agencies submit documentation, for FNS approval, demonstrating that the assistance meets the purpose test. To provide guidance on how to satisfy the purpose test, the proposed rule identifies a number of factors which FNS would consider as indicators that the energy assistance should be excluded. The list of factors in the proposed rule is not all-inclusive. State agencies may submit other kinds of documentation to demonstrate the purpose of the assistance. At the same time, the existence of any one or all of these factors would not necessarily guarantee that FNS would approve the exclusion. The list of factors is intended simply to provide guidance to State agencies regarding the types of considerations which affect FNS' consideration of whether the purpose of a payment or allowance is to help households meet increasing home energy costs.

The factors include the following:

1. The State or local energy assistance is not limited to households which receive PA or GA.
2. The energy assistance is provided only to households which actually incur home energy costs.
3. If the energy assistance payments are combined with other assistance payments, such as PA or GA, the energy assistance results in an increase in total assistance (not counting food stamps) to the household when compared to the assistance level as of the first day of the State or local legislative session during which the energy assistance is authorized or increased.
4. The energy assistance level reflects the results of studies, surveys, or reports evaluating home energy costs.
5. The energy assistance payments are made separately from any other assistance payments.

In summation, the proposed rule would require State agencies to submit three kinds of documentation regarding State or local energy assistance prior to providing a resource and income exclusion. State agencies would have to document: (1) That State or local law designates the payments or allowances as energy assistance; (2) that the payments or allowances are calculated as if provided on a seasonal basis for an aggregate period of not more than six months, and if necessary, the reasons for providing the assistance over a period of more than six months; and (3) that the assistance is provided for the purpose of helping low-income households to meet home energy costs. FNS would review the documentation submitted by the State agency and, if the three requirements have been met, would inform the State agency that the State or local energy assistance may be excluded. (See 7 CFR 273.8(e)(14) and 273.9(c)(11)).

Restoration of Lost Benefits

Section 1320 of the 1981 amendments contains two provisions which address the restoration of lost benefits. The first provision (Section 1320(a)) states that allotments shall not be restored for any period of time longer than one year prior to the date the State agency received a request for restoration or the State agency is notified or otherwise discovers a loss has occurred. The current regulations specify a one year limit in all situations except when benefits are restored as a result of a reversal of a fraud disqualification penalty. In the situation of a reversed fraud disqualification penalty, the current regulations do not place a time limit on the restoration of benefits. These proposed rules reflect the mandate of the 1981 amendments of a 12 month limit on all restoration of lost benefits. The second provision in the 1981 amendments (Section 1320(b)) concerns restoration of lost benefits based on a judicial determination that benefits were wrongfully denied.

Current regulations at 7 CFR 273.17 require State agencies to compute the amount of benefits to be restored from the most recent of the following three dates: the month the State agency was notified by the household or by another person or agency in writing or orally of the possible loss to that household; the month the State agency discovered the loss in the normal course of business; or, the date the household requested a fair hearing to contest the adverse action wich resulted in the loss. These proposed rules simplify these instructions. In all situations other than when a judicial action is involved, the one year limit will be computed from either the date the State agency receives a request from the household for restoration or the date the State agency is notified or otherwise discovers that a loss to a household has occurred, whichever occurred first. When a judicial action finds that lost benefits are due, then lost benefits would be computed for the one year prior to initiation of the court action. However, if the court action is a review of a State agency hearing, lost benefits would be computed from the date the State agency was first notified of the loss. In any event, restoration can never be for more than one year from when the State agency is notified or discovers the loss, whichever occurred first. (See 7 CFR 273.17(a) and (e)).

Implementation

State or local governments would be required to bring their energy assistance programs into compliance with the new provisions within six months of publication of the final rule. If State or local governments fail to meet this deadline, their energy assistance would

no longer be excludable. The six month deadline is indicated in the Conference Report on the 1981 Farm Bill. It is intended to provide State and local legislatures sufficient time to revise their laws and programs as necessary. Following publication of the final rule, State or local energy assistance which is not already being excluded would not be approved for exclusion unless it is established in compliance with the new provisions.

The new provisions concerning restoration of lost benefits shall be implemented no later than 120 days following publication of the final rule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social Security, Students.

Accordingly, it is proposed that 7 CFR Parts 272 and 273 be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

In § 272.1, a new Subparagraph (46) is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(46) *Amendment 225.* The State agency shall obtain FNS approval for the exclusion of energy assistance provided under any State or local program, in accordance with the criteria set forth in sections 273.8(e)(14) and 273.9(c)(11), within six months of the date of publication of the final rule. State or local energy assistance which is not approved during this six month period shall cease to be excluded at the end of the period. The new provisions concerning restoration of lost benefits in sections 273.17 (a) and (e) shall be implemented no later than 120 days following publication of the final rule.

2. In 272.3, paragraph (a)(ix) is amended by removing the words "§ 273.8(e)(11)(viii) and § 273.9(c)(10)(v)", and inserting in lieu therof the words "§ 273.8(e)(14) and § 273.9(c)(11)".

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.8, paragraph (e)(11)(viii) is removed, paragraphs (e)(11) (ix) and (x) are redesignated as (e)(11)(viii) and (e)(11)(ix), respectively; and, a new paragraph (e)(14) is added to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

(14) Energy assistance payments or allowances excluded as income under § 273.9(c)(11).

* * * * *

4. In § 273.9 paragraph (c)(10)(v) is removed and paragraphs (c)(10)(vi), (vii), (viii), (ix), and (x) are redesignated as (c)(10)(v), (vi), (vii), (viii), and (ix), respectively; and a new paragraph (c)(11) is added to read as follows:

§ 273.9 Income and deductions.

* * * * *

(c) *Income exclusions.* * * *

(11) Payments or allowances made under any Federal law for the purpose of providing energy assistance. In addition, any payments or allowances, including tax credits, under State or local law which are made for the purpose of providing energy assistance shall be excluded from consideration as income, provided that FNS has approved the exclusion of such payments or allowances. Such payments shall include but not be limited to assistance which is combined in a single payment with PA or GA. The State agency shall submit documentation to FNS to show that the State or local energy assistance to be excluded meets the following requirements:

(i) The State or local payments or allowances are made for the purpose of providing energy assistance to households. Factors which may establish to FNS' satisfaction that the purpose of the payments or allowances is to provide energy assistance include, but are not limited to:

(A) The energy assistance is not limited to households which receive PA or GA;

(B) The energy assistance is provided only to households which actually incur home energy costs;

(C) If the energy assistance payments are combined with other assistance payments, such as PA or GA, the energy assistance results in an increase in total assistance to the household (not counting food stamps) when compared to the assistance level as of the first day of the State or local legislative session during which the energy assistance is authorized or increased;

(D) The energy assistance is based on studies, surveys, or reports evaluating home energy costs. The energy assistance levels should be directly tied to the findings of such studies, surveys, or reports; and,

(E) The energy assistance payments are made separately from any other assistance payments;

(ii) The payments or allowances are clearly identified in State or local law as energy assistance, distinct from other assistance; and

(iii) The levels of State or local energy assistance payments or allowances are calculated based on the seasonal home energy needs of typical households over an aggregate period not exceeding six months per year. If the State or local energy assistance is actually provided over a period longer than this aggregate, then the State agency shall document the reasons why it is administratively infeasible or impracticable to provide the energy assistance within the aggregate period on which it is based.

* * * * *

5. In § 273.17, paragraph (a)(1) is revised, paragraph (a)(2) is redesignated as (a)(3), a new paragraph (a)(2) is added, and paragraph (e) is revised, The changes read as follows:

§ 273.17 Restoration of lost benefits.

(a) *Entitlement.* (1) The State agency shall restore to households benefits which were lost whenever the loss was caused by an error by the State agency or by a fraud disqualification which was subsequently reversed as specified in paragraph (e) of this section, or if there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits. Benefits shall be restored for not more than 12 months prior to whichever of the following occurred first:

(i) The date the State agency receives a request for restoration from a household; or

(ii) The date the State agency is notified or otherwise discovers that a loss to a household has occurred.

(2) The State agency shall restore to households benefits which were found by any judicial action to have been wrongfully withheld. If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than 12 months from the date the court action was initiated. When the judicial action is a review of a State agency action, the benefits shall be restored for a period of not more than 12 months from the first of following dates:

(i) The date the State agency receives a request for restoration;

(ii) If no request for restoration is received, the date the fair hearing action was initiated; but

(iii) Never more than one year from when the State agency is notified of, or discovers, the loss.

* * * * *

(e) *Lost benefits to individuals disqualified for misrepresentation or fraud.* Individuals disqualified for intentional misrepresentation or fraud are entitled to restoration of any benefits lost during the months that they were disqualified, not to exceed 12 months, only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the period of disqualification based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the disqualification period imposed by an administrative disqualification in a separate court action. For each month the individual was disqualified, not to exceed 12 months, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: September 8, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-25096 Filed 9-13-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Preliminary Free and Reserve Percentages for the 1982–83 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on preliminary marketing percentages for Natural (sun-dried) Seedless raisins from the 1982 production. The estimated 1982 production of such raisins is in excess of domestic and Western Hemisphere market needs, and the proposal is intended to tailor the supply to these needs. Excess supplies would be available primarily for sale to handlers for use as free tonnage, and for export to approved countries outside the Western Hemisphere.

DATE: Comments must be received by October 12, 1982.

Proposed Effective Dates: August 1, 1982, through July 31, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "nonmajor" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this section will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the 20 regulated handlers.

J. S. Miller has determined that an emergency situation exists which warrants less than a 60-day comment period. Producers are beginning to dry grapes into raisins, and handlers will begin acquiring Natural (sun-dried) Seedless raisins from the 1982 crop soon for processing and marketing. Therefore, producers and handlers must know as soon as possible what preliminary marketing percentages will apply to the 1982 crop so they can plan their operations accordingly.

The proposal is to designate a preliminary free tonnage percentage for Natural (sun-dried) Seedless raisins for the 1982–83 crop year of 43 percent, and a preliminary reserve tonnage percentage of 57 percent. The 1982–83 crop year began August 1, 1982.

These designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to work with USDA in administering its terms and provisions.

Under § 989.54(b) of the order, the Committee is required to recommend on or before October 5, a preliminary free tonnage percentage for any varietal type of raisin for which a free tonnage has been computed. If the Committee determines that the field price is firmly established for a particular varietal type, the Committee is required to recommend a preliminary free tonnage percentage which when applied to the estimated production of that varietal type, would release 85 percent of the computed free tonnage for that varietal type. If the Committee determines that a field price is not firmly established, it shall recommend a preliminary free tonnage percentage which when applied to the estimated production of a varietal type would release 65 percent of the computed free tonnage for that varietal type. The field price for this varietal type has not been firmly established, therefore, 65 percent of the computed free tonnage of Natural (sun-dried) Seedless raisins would be released. In accordance with § 989.54(a) the Committee computed a free tonnage for Natural (sun-dried) Seedless raisins of 171,494 natural condition tons. Sixty-five percent of the computed free tonnage is 111,471 tons which, when divided by the estimated production (260,000 tons) results in a preliminary free tonnage percentage of 43 percent.

Section 989.54(b) also provides that any difference between the preliminary or final free tonnage percentage and 100 percent is the reserve percentage. Thus, the preliminary reserve percentage for Natural (sun-dried) Seedless raisins would be 57 percent.

The proposed preliminary free tonnage percentage would make 111,471 tons of the estimated 1982 production of Natural (sun-dried) Seedless raisin production available for immediate sale in any marketing channel. When a field price is established the Committee will recommend a free tonnage percentage that will release 85 percent (145,770 tons) of the free tonnage. By then the Committee should have a firmer estimate of the 1982 NS production. No later than February 15, the Committee must recommend a free tonnage percentage that will release the full free tonnage for NS raisins.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, and California.

The proposal is as follows: (The following section will not be published in the Code of Federal Regulations).

§ 989.236 Free and reserve percentages for the 1982-83 crop year.

The preliminary percentage for standard Natural (sun-dried) Seedless raisins acquired by handlers during the crop year beginning August 1, 1982, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	43	57

Dated: September 8, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-25132 Filed 9-13-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0341]

Riboflavin and Riboflavin-5'-Phosphate (Sodium); Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm riboflavin and riboflavin-5'-phosphate (sodium) as generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of these ingredients as GRAS substances for use in dietary supplements.

DATE: Comments by November 15, 1982.

ADDRESS: Comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATIN CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-426-9463

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of riboflavin and riboflavin-5'-phosphate (sodium) has been evaluated. In accordance with § 170.35 (21 CFR 170.35), the agency is proposing to affirm the GRAS status of these ingredients as nutrients for direct use in conventional food [1] and infant formula.

The GRAS status of the use of riboflavin and riboflavin-5'-phosphate (sodium) in dietary supplements (i.e., over-the-counter vitamin preparations in such forms as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be authorized under Subpart F of Part 182 (21 CFR Part 182).

Riboflavin, also called vitamin B_2 is an essential nutrient in humans because its metabolic derivatives, riboflavin-5'-phosphate and flavin adenine dinucleotide (FAD), are cofactors in a number of enzymatic electron transfer reactions. Riboflavin deficiency produces a variety of metabolic impairments manifested by subnormal growth, corneal vascularization, dermatitis, alopecia, fatty liver, scrotal dermatitis, and various oral and facial lesions.

Riboflavin occurs naturally in a variety of foods including yeast, milk, egg yolks, wheat germ, malted barley, fish, liver, kidney, heart, and leafy vegetables.

Riboflavin that is added to food is generally prepared synthetically by several chemical synthesis procedures and biosynthetically using the organism *Eremothecium ashbyii*. Riboflavin-5'-phosphate (sodium) is prepared by phosphorylation of riboflavin with chlorophosphoric acid, pyrophosphoric acid, metaphosphoric acid, or pyrocatechol cyclic phosphate.

Riboflavin occurs as yellow to orange-yellow needles that are crystallized from 2*N* acetic acid, alcohol, water, or pyridine. One gram dissolves in from 3,000 to 15,000 milliliters of water, depending on the crystal structure. Riboflavin is less soluble in alcohol than in water and is insoluble in ether and chloroform. Riboflavin is stable in the dry form and in mineral acids in the dark. However, it decomposes rapidly in dilute solutions, especially when exposed to light.

Riboflavin-5'-phosphate (sodium) occurs as the dihydrate in yellow to orange-yellow crystals. Approximately 112 milligrams dissolve in 1 milliliter of water near neutrality but the solubility declines with decreasing pH. Dilute solutions are sensitive to destruction by ultraviolet light.

Riboflavin and riboflavin-5'-phosphate were listed as GRAS nutrients in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, they were listed as GRAS nutrients and dietary supplements in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, in a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients. Therefore, riboflavin and riboflavin-5'-phosphate currently are listed as GRAS in §§ 182.5695 and 182.5697 (21 CFR 182.5695 and 182.5697), respectively, for use in dietary supplements and in §§ 182.8695 and 182.8697 (21 CFR 182.8695 and 182.8697), respectively, for use in food as nutrients. In addition, riboflavin is listed in § 73.450 (21 CFR 73.450) as a color additive that is exempt from certification.

Riboflavin is listed as a required ingredient in standards of identity for the enrichment of certain breads (21 CFR 136.115), grains and flours (21 CFR 137.165, 137.185, 137.235, 137.260, 137.305, and 137.350), and macaroni and noodle products (21 CFR 139.115, 139.117, 139.122, 139.135, 139.155, and 139.165). Riboflavin may also be used to fortify foods as described in Part 104 (21 CFR Part 104). Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350a) lists the ingredient as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient level of riboflavin in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which riboflavin and riboflavin-5'-phosphate were used and the levels of usage. NAS/NRC combined this manufacturing information with information on

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in §170.3(n) (21 CFR 170.3(n)).

consumer consumption of foods to estimate consumer exposure to these ingredients. Based on the NAS/NRC data, during the decade 1960 to 1970, use of riboflavin increased by approximately 55 percent, and use of riboflavin-5'-phosphate (sodium) increased by approximately 25 percent. FDA estimates from the NAS/NRC survey that in 1970 the use of riboflavin in food was 202,000 pounds, and the use of riboflavin-5'-phosphate (sodium) in food was 68,000 pounds.

Riboflavin and riboflavin-5'-phosphate (sodium) have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 2,703 abstracts was reviewed, and 62 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review and the results of other studies have been summarized in the report of the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available information on riboflavin and riboflavin-5'-phosphate (sodium).[2] In the Select Committee's opinion:

Riboflavin, and essential nutrient, is a constituent of two coenzymes: Riboflavin-5'-phosphate [flavin mononucleotide (FMN)] and flavin adenine dinucleotide (FAD), which are essential components of a number of oxidative enzyme systems. Various foods such as bakery, cereal and pasta products are commonly enriched by the addition of 2 to 5 mg per kg product. Also, many commonly used vitamin supplements contain riboflavin. The amount of riboflavin-5'-phosphate added to food is miniscule.

The Recommended Dietary Allowance of riboflavin is 0.6 mg per 1000 kcal for persons of all ages with an additional 0.3 mg daily for pregnant and 0.5 mg for lactating women. A recent U.S. survey of over 20,000 persons, 1 to 74 years of age, revealed a mean average intake of 1.92 and a median of 1.69 mg per day.

The acute toxicity in animals of riboflavin or FMN given orally is extremely low, with LD_{50} values several orders of magnitude greater than the dietary requirement or the estimated addition to food. The relative insolubility of riboflavin limits the absorption when large amounts are ingested. No reports have come to the attention of the Select Committee suggesting carcinogenic, mutagenic or teratogenic effects of riboflavin. Normal reproductive performance was observed in three generations of rats fed several hundred times their daily requirement. Toxic effects in man have not been reported apart from rare instances of sensitivity [3]

The Select Committee concludes that no evidence in the available information on riboflavin or riboflavin-5'-phosphate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of the available information and, insofar as riboflavin and riboflavin-5'-phosphate (sodium) are used as nutrients in conventional foods, agrees with the conclusion of the Select Committee. Therefore, the agency proposes that riboflavin and riboflavin-5'-phosphate (sodium) be affirmed as GRAS nutrients for direct addition to conventional human food. However, because the NAS/NRC survey did not specifically request use data on dietary supplement uses, FDA does not have adequate data upon which to judge the exposure to these substances resulting from their use as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of the use of these ingredients in dietary supplements and, therefore, can take no action at this time on the GRAS status of riboflavin and riboflavin-5'-phosphate for this use. Therefore, FDA is taking no action on the listing of these ingredients in Subpart F of Part 182 as dietary supplements.

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for riboflavin and riboflavin-5'-phosphate (sodium) the levels of use reported in the 1971 NAS/NRC survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. In addition, use of riboflavin has been reported in a large number of food categories. Therefore, the agency concludes it is unnecessary to list those categories in the proposed regulation. However, the agency will list the single food category in which use of riboflavin-5'-phosphate (sodium) was reported. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)).

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency intends to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on riboflavin, the scientific literature review updates on riboflavin and riboflavin-5'-phosphate are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Riboflavin (scientific literature review).	PB241-946/AS.	A12	$15
Riboflavin (scientific literature review update).	PB278-477/AS.	A03	6
Riboflavin-5'-phosphate sodium (scientific literature review update).	PB278-478/AS.	A03	6
Riboflavin and riboflavin-5'-phosphate (Select Committee report).	PB301-406/AS.	A03	6

[1] Price subject to change.

This proposed action does not affect the current use of riboflavin and riboflavin-5'-phosphate in pet food or animal feed, or its color additive uses.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations.

[2] "Evaluation of the Health Aspects of Riboflavin and Riboflavin-5'-Phosphate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 10-16. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm the GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, p.17.

[4] *Ibid.*

FDA has modified paragraph (c) of §§ 184.1695 and 184.1697 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed and for riboflavin-5'-phosphate the single food category reported. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no adverse significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8695 and 182.8697 [Removed]

1. Part 182 is amended by removing § 182.8695 *Riboflavin* and § 182.8697 *Riboflavin-5'-phosphate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1695, to read as follows:

§ 184.1695 Riboflavin.

(a) Riboflavin ($C_{17}H_{20}N_4O_6$, CAS Reg. No. 83–88–5) occurs as yellow to orange-yellow needles that are crystallized from 2*N* acetic acid, alcohol, water, or pyridine. It may be prepared by chemical synthesis, biosynthetically by the organism *Eremothecium ashbyii*, or isolated from natural sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 262, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

b. By adding new § 184.1697, to read as follows:

§ 184.1697 Riboflavin-5'-phosphate (sodium).

(a) Riboflavin-5'-phosphate (sodium) ($C_{17}H_{20}N_4O_9PNa.2H_2O$, CAS Reg. No. 130–40–5) occurs as the dihydrate in yellow to orange-yellow crystals. It is prepared by phosphorylation of riboflavin with chlorophosphoric acid, pyrophosphoric acid, metaphosphoric acid, or pyrocatechol cyclic phosphate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 263, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in milk products, defined in § 170.3(n)(31) of this chapter, at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the act or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before November 15, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-24945 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 423; Re: Notice No. 393]

Vintage Fruit Wine; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws Notice No. 393 (46 FR 54963) in which ATF solicited public comment regarding the amending of wine regulations to allow the labeling of fruit wines with harvest dates. Presently, only wine produced from grapes may be labeled with the harvest date of the grapes and be called vintage wine. ATF is withdrawing the notice of proposed rulemaking since no evidence was presented showing that a vintage date on such wines would convey useful information similar to that conveyed by the term's use on grape wines.

FOR FURTHER INFORMATION CONTACT: Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Notice No. 393

ATF originally issued Notice No. 393 on November 5, 1981 (46 FR 54963) in response to a petition from Merrydown Wine Company Limited which requested the allowance of vintage references on the labels of apple wine qualifying as cider. Apple cider as a Class 5, fruit wine, cannot be labeled with these references. ATF expanded consideration of the petition for vintage references and harvest dates to include not only cider but all of Class 5, fruit wines. ATF was also interested in information regarding current consumer understanding of the term "vintage" and their association of the term with grape wines and non-grape fruit wines.

Summary of Comments

ATF received 14 comments in response to Notice No. 393. Comments were primarily from industry members and trade associations. The overwhelming majority of the commenters believed that ATF should not allow vintage dates on fruit wines. Several reasons were cited for opposing any amendment to change the existing regulations.

The consensus is that the consumer considers a vintage date as referring to grape products only, and to use it in reference to non-grape fruit products would be misleading.

Several commenters stated that fruit wines may be produced from frozen fruit or frozen concentrate which has been stored for up to three years. A harvest date on these wines would have no bearing as to the production of the wine. Some stated that fruit wines are best when young and fresh and therefore labeling them with a vintage date might give the consumer the impression that an older fruit wine is better than a younger fruit wine.

Some commenters opposed to any change were not aware of whether fruits besides grapes were also affected by weather conditions of a particular growing season creating distinguishing characteristics in the resultant wine produced. One commenter wrote that "vintage" refers to the qualities in a given crop of grapes which have matured over several months in a given year. While grape vines have only one growing season, some fruits may be harvested year round at different times of the year. The commenter believed that for this reason the concept of "vintage" expressing the quality of a distinct growing season would be negated if it were applied to non-grape fruit wines.

Those that commented in favor of the amendment believed that the term vintage should be broadly used to signify the year of the growth and the harvest of the fruit used in producing the wine. They believed that seasonal differences do exist in other fruit besides grapes, and that the consumer should have the opportunity to compare non-grape fruit wines of separate vintages. One producer of fruit wine stated that some fruit wines age very well and others do not. He stated that different vintages of fruit wine do not always taste the same. This commenter believed that consumers need the truth in labeling which is provided by vintage dating to better enjoy the wines they purchase.

Conclusion

The regulations refer to vintage as the "year of harvest." The regulations do not restrict the meaning of "vintage" relating solely to grape wine. However, ATF recognizes that there is a certain mystique and meaning of a vintage date which relates to the grapes used to produce a wine. Further, ATF agrees that consumers do associate vintage only with grape wine products. Additionally, ATF agrees that vintage historically is considered a guide as to the maturity of the wine.

Accordingly, in view of these reasons, ATF withdraws Notice No. 393.

Drafting Information

The principal author of this document is Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel in other offices of the Bureau also participated in the preparation of this document, both in matters of substance and style.

Authority and Issuance

This document is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended, 27 U.S.C. 205.

Signed: August 11, 1982.

Stephen E. Higgins,

Acting Director.

Approved: August 25, 1982.

J. M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-25120 Filed 9-13-82; 8:45 am]

BILLING CODE 4810-31-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-621; RM-4169]

FM Broadcast Stations in Fairbanks, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 251 to Fairbanks, Alaska, in response to a petition filed by Borealis Broadcasting, Inc. The proposal could provide a fifth FM service to that community.

DATES: Comments must be filed on or before October 25, 1982, and reply comments must be filed on or before November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fairbanks, Alaska).

Adopted: August 31, 1982.

Released: September 9, 1982.

1. A petition for rule making was filed July 23, 1982, by Borealis Broadcasting, Inc. ("petitioner") licensee of Station KFAR(AM) in Fairbanks, Alaska, proposing the assignment of Class C FM Channel 251 to Fairbanks as its fifth FM assignment. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Since Fairbanks, Alaska, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian government.

3. In view of the fact that the proposed assignment could provide a fifth FM broadcast service to Fairbanks, Alaska, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with respect to the following community.

City	Channel No.	
	Present	Proposed
Fairbanks, Alaska	266, 273 and 284.	251, 266, 273 and 284.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before October 25, 1982, and reply comments on or before November 10, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commisision's Rules,* 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advance in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Pubic Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-25178 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-595; RM-4168]

FM Broadcast Station in Pine Bluff, Arkansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 257A to Pine Bluff, Arkansas, in response to a petition filed by Jerome Green. The proposed

assignment could provide a third FM service to Pine Bluff.

DATES: Comments must be filed on or before October 15, 1982, and reply comments must be filed on or before November 1, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 23, 1982.

Released: September 3, 1982.

1. The Commission considers herein a petition for rule making, filed July 22, 1982, by Jerome Green ("petitioner") proposing the assignment of FM Channel 257A to Pine Bluff, Arkansas, as that community's third FM assignment. Petitioner stated that he will apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide Pine Bluff with its third local FM broadcast service, the Commission believes it would be appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Pine Bluff, Arkansas	222, and 235.	222, 235, and 257A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before October 15, 1982, and reply comments on or before November 1, 1982, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-25243 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-623; RM-4159]

FM Broadcast Station in Bakersfield, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 221A to Bakersfield, California, as its fifth FM allocation, in respose to a petition filed by Daniel Rushton.

DATES: Comments must be filed on or before October 25, 1982, and reply comments must be filed on or before November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 31, 1982.

Released: September 9, 1982.

1. The Commission herein considers the petition for rule making filed July 13, 1982, by Daniel Rushton ("petitioner") which seeks the assignment of Channel 221A to Bakersfield, California, as its fifth FM assignment.

2. In support of the proposal, petitioner provided demographic information to demonstrate the need for an additional Bakersfield station. However, it view of the action taken in *Revision of FM Assignment Policies and Procedures,* 90 F.C.C. 2d 88 (1982), these issues were eliminated as a requirement to justify a nonconflicting proposal. Petitioner stated his intention to apply for the channel, if assigned.

3. In view of the fact that a fifth local FM broadcast service could be provided to Bakersfield, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, as it relates to Bakersfield, California, as follows:

City	Channel No.	
	Present	Proposed
Bakersfield, California.	231, 243, 268, and 300.	221A, 231, 243, 268, and 300.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before October 25, 1982, and reply comments on or before November 10, 1982, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comment, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and

Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-25238 Filed 9-13-82 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-597; RM-4150]

TV Broadcast Station in Lake Worth, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 67 to Lake Worth, Florida, as its first television assignment in response to a petition filed by Christian Television/Palm Beach County.

DATES: Comments must be filed on or before October 15, 1982, and reply comments must be received on or before November 1, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 23, 1982.

Released: September 3, 1982.

1. The Commission herein considers a petition for rule making filed June 30, 1982, by Christian Television/Palm Beach County ("petitioner") seeking the assignment of UHF Television Channel 67 to Lake Worth, Florida. Petitioner expressed its interest in applying for the channel, if assigned.

2. Lake Worth (population 27,048) in Palm Beach County (population 573,125) [1] is located on the east coast of Florida, approximately 95 kilometers (59 miles) north of Miami.

3. Petitioner has submitted demographic information in support of its request which demonstrates sufficient need to propose a first local television channel for Lake Worth.

4. A site restriction for Channel 67 is required of 1.7 miles north of the city to avoid short spacing to Channel 63 assigned to Boca Raton, Florida.

5. In view of the fact that Lake Worth could receive its first local television service, we shall seek comments on the proposal to amend the television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the city of Lake Worth, Florida, as follows:

City	Channel No.	
	Present	Proposed
Lake Worth, Florida		67

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 15, 1982, and reply comments on or before November 1, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-25241 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-622; RM-4162]

FM Broadcast Stations in Houma, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Class C FM Channel 298 for Channel 296A at Houma, Louisiana, and to modify the Class A license accordingly, in response to a petition filed by South Louisiana Broadcasters, Inc.

DATES: Comments must be filed on or before October 25, 1982, and reply comments on or before November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 31, 1982.

Released: September 9, 1982.

1. A petition for rule making was filed on July 19, 1982, by South Louisiana Broadcasters, Inc. (petitioner),[1] which seeks to substitute Class C Channel 298 for Channel 296A at Houma, Louisiana, and to modify the license for Station KCIL(FM) (Channel 296A) to specify operation on Channel 298.

2. Petitioner submitted population and demographic information in support of the proposal. It noted that the proposed assignment would alleviate the intermixture of Class A and C channels currently existing in the community. The action taken in BC Docket No. 80-130, *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 881 (1982), eliminated these issues as justification for a nonconflicting proposal.

3. We believe that the petitioner's proposal warrants consideration. The transmitter site is restricted to 12.3 miles south of the city to meet spacing requirements to FM Station KSJC, Magee, Mississippi. Petitioner proposes a site 13.6 miles south of Houma. In accordance with our established policy we shall propose to modify the license of Station KCIL(FM) (Channel 296A) to specify operation on Channel 298. However, if another party should indicate an interest in the Class C assignment, then the modification could not be implemented. Instead an opportunity for the filing of a competing application must be provided. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. In view of the apparent need for a second wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, as it pertains to Houma, Louisiana, as follows:

City	Channel No.	
	Present	Proposed
Houma, Louisiana	281, and 296A.	281, and 298.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[1] Petitioner is the licensee of Station KCIL(FM), Channel 296A, Houma, Louisiana.

6. Interested parties may file comments on or before October 25, 1982, and reply comments on or before November 10, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached.

Proponent(s) will be excepted to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-25239 Filed 9-13-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-596; RM-4145]

TV Broadcast Station in Crockett, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 40 to Crockett, Texas, as its first television assignment in response to a petition filed by Holt-Robinson Communications.

DATES: Comments must be filed on or before October 15, 1982, and reply comments must be received on or before November 1, 1982.

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

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

SUPPLEMENTARY INFORMATION:.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 23, 1982.

Released: September 3, 1982.

1. The Commission herein considers a petition for rule making filed June 25, 1982, by Holt-Robinson Communications ("petitioner") seeking the assignment of UHF Television Channel 40 to Crockett, Texas. Petitioner expressed an interest in applying for the channel, if assigned.

2. Crockett (population 7,405), the seat of Houston County (population 22,299),[1] is located in east Texas, approximately 175 kilometers (110 miles) north of Houston, Texas.

3. Petitioner has submitted demographic information in support of its request which is sufficient to demonstrate a need for a first local television channel for Crockett.

4. In view of the fact that Crockett could receive a first local television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the rules), with regard to Crockett, Texas, as follows:

City	Channel No.	
	Present	Proposed
Crockett, Texas		40

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirement are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interest parties may file comments on or before October 15, 1982, and reply comments on or before November 1, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, §73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial coments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comment shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-25242 Filed 9-13-82; 8:45am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-598; RM-4157]

TV Broadcast Station in Lake Dallas, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UFH Television Channel 55 to Lake Dallas, Texas, as its first television assignment in response to a petition filed by the McLenden Company.

DATES: Comments must be filed on or before October 15, 1982, and reply comments must be filed on or before November 1, 1982.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 23, 1982.

Released: September 3, 1982.

1. The Commission herein considers the petition for rule making filed July 1, 1982, by the McLenden Company ("petitioner"), which seeks the assignment of UHF Television Channel 55 to Lake Dallas, Texas. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other criteria.

2. Lake Dallas (population 75,633) [1] is located in northeastern Texas approximately 40 kilometers (25 miles) northwest of Dallas, Texas. It has no local television broadcast service.

3. Petitioner included demographic information which demonstrates a need for a first local television service in Lake Dallas.

4. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignements (§ 73.606(b) of the Rules) with regard to the city of Lake Dallas, Texas, as follows:

City	Channel No.	
	Present	Proposed
Lake Dallas, Texas		55

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 15, 1982, and reply comments on or before November 1, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court

[1] Population figures are taken from the 1970 U.S. Census.

review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 173.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making in which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-25240 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-620; RM-4173]

FM Broadcast Station in Kanab, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 266 to Kanab, Utah, in response to a petition filed by Jack H. Jensen. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before October 25, 1982, and reply comments must be filed on or before November 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20544.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Kanab, Utah).

Adopted: September 1, 1982.

Released: September 9, 1982.

1. A petition for rule making was filed July 27, 1982, by Jack H. Jensen, ("petitioner") proposing the assignment of Class C FM Channel 266 to Kanab, Utah, as its first FM assignment. Petitioner states that he will apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed channel assignment could provide a first EM broadcast service to Kanab, Utah, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Kanab, Utah		266

3. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before October 25, 1982, and reply comments on or before November 10, 1982, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend

§§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceedfing, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Publice Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-25177 Filed 9-13-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 178
Tuesday, September 14, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Upper Chester River Watershed, Maryland and Delaware; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Gerald R. Calhoun, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Maryland, is hereby providing notification that a record of decision to proceed with the installation of the Upper Chester River Watershed project is available. Single copies of this record of decision may be obtained from Gerald R. Calhoun at the address shown below.

FOR FURTHER INFORMATION CONTACT: Gerlad R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301-344-4180.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Gerald R. Calhoun,
State Conservationist.

[FR Doc. 82-25183 Filed 9-13-82; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Commuter Fitness Determination

The Board is proposing to find the following carriers fit, willing and able to provide commuter air carrier service under Section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-8-129	Western Pacific Express, Inc., d.b.a. WestPac.	September 15, 1982.
82-9-2	Southeastern Commuter Airlines, Inc.	September 20, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Order 82-8-129 with the Special Authorities Division, Room 915, and for Order 82-9-2 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82-8-129: J. Kevin Kennedy, (202) 673-5405; and for Order 82-9-2: Dennis DeVany, (202) 673-5405, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 7, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-25190 Filed 9-13-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40813]

Firstair Corp. Fitness Investigation; Prehearing Conference

Notice is hereby given that a Prehearing Conference in the above-entitled matter is assigned to be held on September 20, 1982, at 9:30 a.m. (local time) in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., September 9, 1982.

John M. Vittone,
Administrative Law Judge.

[FR Doc. 82-25191 Filed 9-13-82; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on October 6, 1982, at 155 Laurel Avenue, Providence, Rhode Island, 02906. The purpose of the meeting will be to discuss subcommittee reports on education, police practices and political participation and review of written materials on the redistricting project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dorothy Davis Zimmering, 12 Chapin Road, Barrington, Rhode Island, 02806. (401) 245-3515 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 9, 1982.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 82-25123 Filed 9-13-82; 8:45 am]
BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 9 a.m. and will end at 4 p.m., on October 2, 1982, at the Travel Lodge Motel, 125 Main Street, Rapid City, South Dakota, 57701. The purpose of the meeting will be to discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation

to the Committee, should contact the Chairperson, Marvin Amiotte, Oglala Sioux Tribe, Post Office Box 1053, Pine Ridge, South Dakota, 57770, (605) 867-5140 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 9, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-25125 Filed 9-13-82; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 6:30 p.m., on September 30, 1982, at the Ramada In-Downtown, 160 Union Avenue, Memphis, Tennessee, 38103. The purpose of the meeting will be to discuss the release of the Committee's report on affirmative action and program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mattie R. Crossley, 351 Fay Avenue, Memphis, Tennessee, 38109, (901) 276-4461 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, Room 362, Atlanta, Georgia, 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 9, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-25124 Filed 9-13-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 2825-162]

New Procedures for the Interface Standards Exclusion List

Correction

In FR Doc. 82-24313, appearing at page 38959 in the issue for Friday, September 3, 1982, please make the following corrections:

(1) On page 38959, in the first column, in the first paragraph, in the tenth line, the word "redesigned" should have been "redesignated".

(2) On page 38959, in the third column, in the paragraph beginning "Henceforth", in the sixth line, the word "revision" should have been "review".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

South Atlantic and Gulf of Mexico Fishery Management Councils and Their Advisory Panels; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The South Atlantic and Gulf of Mexico Fishery Management Councils, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94-265), have also established Advisory Panels. The South Atlantic and Gulf of Mexico Councils and their Advisory Panels will hold joint meetings to review, decide a size limit for and discuss the impacts of various size limits for the draft Calico Scallop Fishery Management Plan.

DATES: The public meetings will take place on Monday, October 4, 1982, at approximately 1 p.m., and will adjourn on Tuesday, October 5, 1982, at approximately noon, at the Crossway Inn, 3901 North Atlantic Avenue, Cocoa Beach, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Cirlce, Suite 306, Charleston, South Carolina 29407.

Dated: September 9, 1982.

Jack L Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-25180 Filed 9-13-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Public Information Collection Requirement Submitted to OMB for Review

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

Extension

Government Industry Reference Data Edit and Review (GIRDER)

The GIRDER report is the only method available to verify manufacturers' names and part numbers which are associated with National Stock Numbers (NSNs) in the Federal Catalog System (FSC). This FSC maintenance avoids erroneous invitations to bid and erroneous NSN assignment and is in consonance with the intent of Title 10, U.S. Code, Chapter 145.

Business Firms: 1,000 (sample); 100 responses annually; 2,270 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Gladys Frye, OPI, Defense Logistics Agency (DLA-S), Cameron Station, Alexandria, VA 22314, telephone (202) 274-6491.

Dated: September 9, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-25237 Filed 9-13-82; 8:45 am]

BILLING CODE 3620-01-M

Department of the Air Force

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondents: (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded: (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Report of Existence (ROE) AFAFC Form Nos. 0-126 and 0-127.

Retired military pay is only payable during the lifetime of the retired member and a survivor annuity is payable only during the lifetime of the annuitant (31 Combined Fiscal Regulation 211-1). Payments mailed overseas or to a

trustee or guardian in behalf of the retired member, a report of Existence (ROE) is required by Comptroller General Decision, 44 Comptroller General 208 (1964). Payments mailed to retirees or annuitants through foreign postal channels or addressed to a person holding their power of attorney, the Report of Existence must be made by the retiree or annuitant not less than semi-annually. For payments mailed to a fiduciary, the Report of existence is made by the fiduciary monthly (Comptroller General Decision B-206129, 28 June 1982). When a Report of Existence is not made as required, retired or annuitant payment is discontinued for lack of proof of the existence of the recipient.

United States Air Force retired Military members residing overseas, survivor annuitants of military members and fiduciaries for retired members of 10,000 responses; 500 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB. Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD, DIRMS, IRAD, Room 1A658, Pentagon Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information proposal may be obtained from Ms. Padti Wirth, Headquarters Air Force Accounting and Finance Center, Denver, Colorado 80279, telephone (303) 370-7036.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 8, 1982.

[FR Doc. 82-25130 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

Intent To Grant Limited Exclusive Patent, License to Zimmer, U.S.A., Inc.

Pursuant to the provisions of Part 841 of Title 32, Code of Federal Regulations (42 FR 53958, October 4, 1977), the Department of the Air Force announces its intention to grant to Zimmer, U.S.A., Inc., a corporation of the State of Delaware, a revocable, nonassignable, limited exclusive license restricted to use in the medical and dental fields for a period of ten years under United States Patents Numbers 4,137,370, entitled "Titanium and Titanium Alloys Ion Plated With Noble Metals and Their Alloys", issued January 30, 1979, to inventors Shiro Fujishiro and Daniel Eylon, and 4,181,590, entitled "Method of Ion Plating Titanium and Titanium Alloys With Noble Metals and Their Alloys" issued January 1, 1980, to inventors, Shiro Fujishiro and Daniel Eylon.

This license will be granted unless within 60 days from publication of this notice an application for a non-exclusive license from a responsible applicant is received by the addressee set forth below and the Air Force determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Air Force determines that a third party has presented to the Air Force evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the addressee set forth below within 60 days from the publication of this notice. Also copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washingtron, DC 20231.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street, SW., Washington , D.C. 20324, Telephone No. 202-693-5710.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-25187 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on 14 October 1982 from 8:30 a.m. to 5:00 p.m. and 15 October 1982 from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications Programs.

The meetings concern matters listed in section 522(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly, the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-25188 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Application for Review of Discharge or Dismissal from the Armed Forces of the United States, DD Form 293.

DD Form 293 is the written document that allows an applicant to request review of the disposition of his/her separation if he/she is not satisfied with its current status. The information provided is used to locate and compare with official documents.

Applicants for review of discharge or dismissal: 25,000 responses; 12,500 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695-5111.

Dated: September 9, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-25235 Filed 9-13-82; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Description of Vessels/Description of Operations, ENG Form 3931 and 3931A.

Statistical general use data is collected as required by 42 STAT 1043 on freight and passenger vessels operating in U.S. Waters, under American flag.

Commercial vessel operators: 2,000 responses; 2,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695-5111.

Dated: September 9, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-25236 Filed 9-13-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session on 14-15 October 1982 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 14-15 October 1982 the Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

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

September 9, 1982.

[FR Doc. 82-25128 Filed 9-13-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board; Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft will meet in closed session on 12-13 October 1982 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 12-13 October 1982 the Task Force will consider the mission pontential for long endurance aircraft and will conduct organizational discussions.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

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

September 9, 1982.

[FR Doc. 82-25128 Filed 9-13-82; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

DoD Industrial Preparedness Program—Production Planning Schedule (DD Form 1519).

The DD Form 1519 is used to develop plans with industry for the procurement of selected military equipment and supplies or sevices for fulfilling emergency requirements. Data obtained is used by the Military Departments and Defense Agencies to determine deficiencies and actions required to overcome them.

Manufacturing industries of Military Items: 5,000 responses; 5,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from John E. DuBreuil, OUSDRE(AM)IR, Room 2A330, Pentagon, Washington, D.C. 20301, telephone (202) 695-0292.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 9, 1982.

[FR Doc. 82-25127 Filed 9-13-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Research and Training Centers, Rehabilitation Engineering Centers, Research and Demonstration Projects, and Knowledge Dissemination and Utilization Projects for FY 1983

AGENCY: Department of Education.

ACTION: Correction to the application notice for fiscal year 1983.

The Secretary published an application notice on August 25, at 47 FR

37281. This notice applies to new awards for the National Institute of Handicapped Research. A technical correction is made in the application notice.

On page 37282 there should have been 13 funding priority research areas listed by title under the heading "Funding Priorities for Research and Training Centers (13)".

Three areas were inadvertently omitted. These areas are: Improving Sheltered, Transitional and Protected Employment and Alternative Employment Solutions; Improving Vocational Rehabilitation at the Worksite; Enhancing Pyschosocial and Linguistic Development for Deaf Individuals.

Dated: September 9, 1982.

Daniel Oliver,

General Counsel.

[FR Doc. 82-25195 Filed 9-13-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Union Texas Petroleum Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announced that it has adopted a Consent Order with Union Texas Petroleum Corporation (UTP) as a final order of the Department.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: Donald A. Muncy, Deputy Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 201W, Dallas, Texas 75247, 214/767-7561.

SUPPLEMENTARY INFORMATION: On July 28, 1982, 47 FR 32561, the ERA published a notice in the **Federal Register** that it has executed a proposed Consent Order with Union Texas Petroleum Corporaton on July 9, 1982, which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Nine comments were received. All of the comments addressed the issue of the appropriate disposition of the $1,900,000 refund. Eight comments asserted that the most suitable distribution of the refunds could be accomplished through allotment of the funds to individual state governments for energy conservation programs and other energy-related programs directly benefiting consumers, by pro-rata allotments based on a state's petroleum consumption. One commentor asserted that each state retains preeminent rights to succeed to and obtain funds held by federal entities for the benefit of persons in the state, which might otherwise go unclaimed. Another commentor urges such distribution on the basis of comity between the federal government and the states, and in furtherance of conservation of federal resources. Two comments suggested that the Consent Order be modified to require that funds be paid to DOE for distribution by Department's Office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V. Two comments also suggested that further attempts to identify and recompense injured consumers are required under § 205.199I(a), provided such first purchasers prove they did not pass on the overcharges to their own customers. The ninth commentor advocated direct refund of overcharged amounts to injured wholesalers and commerical customers of Union Texas Petroleum Corporation by DOE.

DOE has not yet determined the appropriate disposition of the $1,900,000 UTP has agreed to refund. The suggestions of the commentors will be duly considered in determining the appropriate disposition of funds.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Union Texas Petroleum should be made final.

Issued in Dallas, Texas on the 9th day of September, 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-25262 Filed 9-13-82; 8:45 am]

BILLING CODE 6450-01-M

[6C0X00256]

Inland Crude Purchasing Corporation; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Inland Crude Purchasing Corporation of Wichita, Kansas. This Proposed Remedial Order alleges pricing violations in the amount of $172,137.57 plus interest in connection with resales of crude oil during the period June 1979 through October 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 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, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma, on the 2d day of September 1982.

James E. Pohl,

Deputy Director, Litigation and Settlement, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 82-25261 Filed 9-13-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3906-001]

Richard L. Bean and Fred G. Castagna; Surrender of Preliminary Permit

September 8, 1982.

Take notice that Richard L. Bean and Fred G. Castagna, Permittees for the Hydro-Genics No. 1 Power Project No. 3906, have requested that their preliminary permit for the project be terminated. The permit was issued on May 29, 1981, and would have expired on April 30, 1983. The project would have been located on Canyon Creek, in Shasta County, near Burney, California.

The request for surrender of the permit was filed on August 19, 1982, and is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25202 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 3000-001 and 3001-001]

Cajun Electric Power Cooperative, Inc.; Surrender of Preliminary Permits

September 8, 1982.

Take notice that Cajun Electric Power Cooperative, Inc. Permittee for the proposed Columbia Lock and Dam and the Jonesville Lock and Dam Projects has requested that its prelimiary permits be terminated. The preliminary permits were issued on May 8, 1980, and would have expired on May 1, 1983. The proposed projects would have been located on existing dams on the Ouachita and Black Rivers in Caldwell,

Catahoula and Concordia Parishes, Louisiana. Permittee indicates that the projects would not appear to be economic sources of energy.

Permittee filed its request on August 12, 1982, and the surrender of its permits for Project Nos. 3000 and 3001 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25203 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-752-000]

Central Vermont Public Service Corp.; Filing

September 8, 1982.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on August 31, 1982, tendered for filing proposed changes in its FERC Electric Service Rate No. 89. The proposed changes would increase revenues from jurisdictional sales and service by $70,029 for the twelve month period ending October 31, 1982.

Central Vermont states that the change is proposed in accordance with Article III of Central Vermont's transmission service agreement with Vermont Electric Cooperative, Inc. which provides that charges will be updated annually to incorporate Central Vermont's cost experience for the preceding calendar year.

Central Vermont proposes an effective date of November 1, 1982.

Copies of this filing were served upon the Vermont Electric Cooperative, Inc. and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 35.211, 385.214). All such motions or protests should be filed on or before September 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25204 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-747-000]

Cleveland Electric Illuminating Co.; Filing

September 8, 1982.

Take notice that on August 26, 1982, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 55 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on September 1, 1982.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's new Rules of Practice and Procedure (18 CFR 211, 214). All such petitions or protests should be filed on or before September 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25205 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-749-000]

Cleveland Electric Illuminating Co.; Filing

September 8, 1982.

Take notice that on August 27, 1982, The Cleveland Electric Illuminating Company (CEI) tendered for filing Amendment No. 1 to the 138 kv Synchronous Interconnection Agreement between CEI and the City of Cleveland, Ohio. Amendment No. 1 provides for an establishment of a second interconnection point between CEI and the City in order to improve the reliability of service to the City.

CEI requests an effective date of August 2, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25219 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-204-000 and CP82-204-001]

Columbia Gas Transmission Corp.; Informal Conference

September 8, 1982.

On July 20, 1982, the Commission issued an order setting the above-styled proceeding for hearing and in which it also convened a pre-hearing conference on August 5, 1982 for the purpose of having the Presiding Administrative Law Judge render a determination as to whether Columbia Gas Transmission Company's (Columbia) application was sufficiently adequate to enable the proceeding to proceed to formal hearing. The Presiding Administrative Law Judge pursuant to the July 20, 1982 order heard argument on this matter on August 5, 1982, and thereafter required that Columbia file an amended application by August 20, 1982 and set other procedural dates for the purpose of holding an expedited hearing as provided for in the Commission's order. At the conclusion of the pre-hearing conference on August 5, 1982, certain of the parties, including the Commission Staff, were of the opinion that it would prove beneficial for the parties to endeavor to determine whether the possibility existed for arriving at a settlement of the matters involved in the above-styled proceeding.

An informal conference will therefore be convened at the offices of the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington,

D.C. (North Building) on September 16, 1982 at 10:00 a.m. in Room No. 3200 in order to determine whether a settlement of the issues raised in the above-styled proceeding can be worked out by the parties to the proceeding. All parties to the above-styled proceeding are invited to attend and participate.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25220 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-461-000]

Columbia Gas Transmission Corp.; Application

September 9, 1982.

Take notice that on August 3, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-461-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued sales of natural gas in interstate commerce for resale with changes in delivery obligations to certain customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant proposes to increase Baltimore Gas and Electric Company's (BG&E) winter contract quantity under Rate Schedule WS from 8,431,200 dt to 9,250,000 dt in Zone 2. This increase, it is maintained, would not affect BG&E's total daily entitlement (TDE) but would enable it to receive its maximum daily quantity under Rate Schedule WS for an additional seven days during the winter period.

It is stated that Applicant proposes to reduce, under Rate Schedule CDS, Columbia Gas of Maryland, Inc.'s contract demand from 50,000 dt per day to 42,600 dt per day in Zone 6, Columbia Gas of Ohio, Inc.'s contract demand from 57,900 dt per day to 46,200 dt per day in Zone 1, and The Dayton Power and Light Company's contract demand from 332,900 dt per day to 317,600 dt per day in Zone 4. Applicant has agreed to the proposed reductions as long as they become effective on January 1, 1983, concurrently with the effective date of Applicant's current rate filing.

It is stated that Applicant proposes to reduce Washington Gas Light Company's, Shenandoah Gas Company's, and Frederick Gas Company, Inc.'s (WGL) winter contract quantity under Rate Schedule WS from 16,068,000 dt to 14,000,000 dt in Zone 2. Applicant states that this decrease would not affect WGL's TDE, but it would decrease the number of days WGL would be able to receive its maximum daily quantity under Rate Schedule WS.

It is stated that the proposed changes in delivery obligations requested by Applicant's customers were made pursuant to the provisions of Applicant's FERC Gas Tariff, Original Volume No. 1 and would have no significant impact on either Applicant's gas supply or operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25221 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-462-000]

Florida Gas Transmission Co.; Application

September 9, 1982.

Take notice that on August 4, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-462-000 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 pipeline and appurtenant 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 it seeks authorization to operate 621 feet of 6.625-inch pipe, a meter station and certain appurtenant facilities which have already been constructed which connect the facilities of Applicant and Natural Gas Pipeline Company of America (Natural) in Jefferson County, Texas. It is stated that Applicant requested authorization in Docket No. CP80-481 to construct and operate offshore and onshore facilities to obtain and transport natural gas from the Sabine Pass Area, Blocks 8, 10, 11, 13, 17, and 18, offshore Texas and Louisiana. Following the Commission's June 10, 1981, order authorizing the construction and operation of offshore facilities to receive Sabine Pass Area natural gas, Applicant constructed the above-mentioned interconnection facilities as interim onshore facilities so as to enable Applicant to receive the Sabine Pass Area natural gas. The natural gas was to be transported by Natural pursuant to a limited term gas transportation agreement, but when natural gas did not flow from the Sabine Pass Block 17 in the volumes expected, the natural gas was able to be transported via existing excess capacity.

Applicant now requests authorization to use the interconnection facilities in order to accommodate volumes anticipated pursuant to a limited term gas sales agreement with Natural.

It is stated that the cost of the facilities was approximately $86,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25222 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2022-000]

Raymond R. Holman; Application

September 9, 1982.

Take notice that on August 25, 1982, Raymond F. Holman filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Philadelphia Electric Company
Director—Philadelphia Electric Power Co.
Director—The Susquehanna Power Co.
Director—The Susquehanna Electric Co.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25223 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5486-001, 5487-001, 5488-001, and 5489-001]

Homestake Consulting and Investment, Inc.; Surrender of Preliminary Permits

September 10, 1982.

Take notice that Homestake Consulting and Investment, Inc., Permittee for the proposed Arbo Creek, Independence Creek, Alexander Creek, and Cyclone Creek Hydroelectric Projects Nos. 5486-001, 5487-001, 5488-001, and 5489-001, respectively, has requested that its preliminary permits be terminated. The permits were issued in February 1982, and would have expired July 31, 1983. The projects would have been located in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permits for Projects Nos. 5486, 5487, 5488, and 5489 are deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25215 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-471-000]

Howell Pipeline Company, Inc.; Application for Approval of Transportation Agreement

September 9, 1982.

Take notice that on August 6, 1982, Howell Pipeline Company, Inc. (Applicant), 1010 Lamar, Suite 1800, Houston Texas 77002, filed in Docket No. CP82-471-000 an application pursuant to Section 284.127 of the Commission's Regulations for authorization to transport natural gas on a long-term basis for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it owns and operates an intrastate pipeline system located within the state of Alabama which was originally operated by Warrior Drilling and Engineering Co., Inc. (WDE) to purchase gas in Lamar and Fayette Counties, Alabama for resale to Alabama Gas Corporation (Alagasco), a local distribution company, pursuant to a gas sales agreement dated September 9, 1976. It is stated that on April 6, 1979, WDE and Southern entered into a gas transportation agreement which provided for a rate of $.45 per Mcf. It is stated that the rate was subsequently reduced to $.41 per Mcf and implemented pursuant to Section 284.123(b)(2) of the Commission's Regulations.

Applicant explains that on April 14, 1980, WDE filed a petition for reorganization under Chapter 11 of the Bankruptcy Code. It is stated that Howell Petroleum Corporation (Howell) purchased WDE's stock and that Applicant, whose name was changed by Howell, is a wholly-owned subsidiary of Howell. Applicant states that on June 1, 1982, WDE and Southern amended their gas transportation agreement to provide for a long-term continuation of the existing transportation agreement.

It is stated that pursuant to the terms of the amended agreement, Applicant would provide Southern transportation services for the current two-year extension and, subject to Commission approval, for a primary term beginning on May 25, 1983, and ending May 1, 1997, and from year to year thereafter.

It is stated that the initial contract transportation fee is $.41 per Mcf of gas transported pursuant to the existing rate established in Docket No. ST79-7, but that Applicant would have the right to increase the transportation rate during the current 2-year extension which ends May 25, 1983. Applicant notes that on July 30, 1982, it filed in Docket No. ST79-7 a petition for approval of a rate increase to $.6725 per Mcf of gas pursuant to Section 284.126(b) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25224 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5554-001]

Hurn Shingle Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 9, 1982.

Take notice that on July 26, 1982, the Hurn Shingle Co., Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 5554 would be located on O'Toole Creek, near Concrete, in Skagit County, Washington. Correpondence with the Applicant should be directed to: John Polak, West Group Power Consultants, Inc., 858 E. Douglas Ave., Bellingham, Washington 98226.

Project Description.—The proposed project would consist of: (1) A 5-foot-high concrete diversion dam; (2) a concrete and steel intake structure; (3) a 2,100-foot-long, 30-inch-diameter steel penstock; (4) a powerhouse containing two generating units, each rated at 810 kW; and (5) a transmission line, not to be included as part of the project. The average annual energy generation is estimated to be 7.32 million kWh.

Purpose of Exemption.—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments.—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the Washington Department of Fisheries, and the Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevent to the granting of an exception. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application.—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 1, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Motions To Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 1, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25206 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6524-000]

Hy-Tech Co.; Application for Preliminary Permit

September 9, 1982.

Take notice that Hy-Tech Company (Applicant) filed on July 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6524 to be known as the Elk Creek Falls Project located on Elk Creek within Clearwater National Forest in Clearwater County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501.

Project Description.—The proposed project would consist of: (1) A 5-foot-high, 45-foot-long diversion structure; (2) a 60-inch-diameter, 2,000-foot-long penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 2,980 kW, operating under a gross head of 360 feet; and (4) a 4-mile-long, 13.5-kV transmission line to connect to an existing Washington Water and Power line. The estimated average annual energy output is 10,140,000 kWh.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which the applicant would conduct engineering, environmental and economic feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $40,000. No new roads will be constructed.

Competing Applications.—This application was filed as a competing application to NorthHydro, Inc.'s application for Project No. 6518 filed on July 14, 1982. Public notice of the filing of the initial application, which has

already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214; 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before October 22, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25207 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6589-000]

Hy-Tech Co.; Application for Preliminary Permit

September 9, 1982.

Take notice that Hy-Tech Company (Applicant) filed on August 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6589 to be known as the Hard Creek Project located on Hard Creek within Payette National Forest in Idaho County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501 and Mr. David J. Milan, James W. Mongomery, Consulting Engineers, Inc., 1301 Vista Ave., Boise, Idaho 83705.

Project Description.—The proposed project would consist of: (1) a 5-foot-high, 45-foot-long diversion structure; (2) a 42-inch diameter, 5,000-foot-long penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 1,310 kW, operating under a head of 240 feet; (4) a 20-foot-long tailrace; and (5) a 13-mile-long, 13.5-kV transmission line to connect to an existing Idaho Power line. The estimated average annual energy output is 4.2 million kWh.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 24 months during which the applicant would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $40,000. No new roads will be constructed.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before November 19, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 C.F.R. § 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. § 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 17, 1983.

Agency Comments.—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene.—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rule 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 19, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25208 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-748-000]

Idaho Power Co.; Filing

September 8, 1982.

Take notice that on August 27, 1982, Idaho Power Company (Idaho), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the State of Idaho, in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administation (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Idaho and BPA for the benefit of Idaho's residential and farm customers.

Idaho requests an effective date of August 25, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 21, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to interevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25225 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-341-001 and ER81-341-002]

Kentucky Utilities Co.; Refund Report

September 8, 1982.

The filing company submits the following:

Take notice that on August 16, 1982, Kentucky Utilities Company filed a refund report pursuant to the Commission's order of July 15, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 23, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25209 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-746-000]

Lockhart Power Co.; Filing

September 8, 1982.

The filing Company submits the following:

Take notice that Lockhart Power Company, on August 25, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff Rate Schedule Resale. The proposed change would increase revenues from jurisdictional sales and service by $170,317 based on the 12-month period ending December 31, 1981.

The reason for the proposed increase is primarily the Company's increased cost of purchased power pursuant to a Duke Power Company increase in wholesale rates filed on August 28, 1982 (Docket No. ER82-732-000). With this increased cost of purchased power and certain other cost increases, the Company would not be able to earn a reasonable return on its investment without adjusting its own resale rates to reflect these increased costs.

Copies of the filing have been served upon the City of Union, South Carolina, Lockhart's sole jurisdictional customer. A copy of the filing has also been mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's new Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25210 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-185-003]

Michigan Consolidated Gas Co.; Petition To Amend

September 9, 1982.

Take notice that on August 16, 1982, Michigan Consolidated Gas Company (Petitioner), 500 Griswold Street, Detroit, Michigan 48122, filed in Docket No. CP82-185-003 a petition to amend the order issued July 2, 1982, in Docket Nos. CP82-185-000 and CP82-185-001 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to add points at which Petitioner's Interstate Storage Division (ISD) would receive gas from, or for the account of, Petitioner's Utility Division (UD) for transportation, and to provide for a maximum daily volume of 200,000 Mcf of gas at the Northville receipt and delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued July 2, 1982, authorized Petitioner to transport gas for UD to and from various delivery and redelivery points along Petitioner's pipeline system within Michigan. Due to an oversight, certain locations were inadvertently omitted from the Gas Transportation Schedule, as "Points of Receipt" where Petitioner would receive gas from UD, or from others for the account of UD. Accordingly, Petitioner proposes to amend the gas transportation agreement to add the following locations as "Points of Receipt":

1. The interconnection of the pipeline facilities of Petitioner and Michigan Wisconsin Pipe Line Company (Mich Wis) in Washtenaw County, Michigan;
2. The interconnection of the pipeline facilities of Petitioner and Mich Wis in Mecosta County, Michigan, and;
3. The interconnection of the pipeline facilities of Petitioner and UD in Wayne County, Michigan.

In addition, Petitioner also proposes to amend the gas transportation agreement so as to provide for a maximum daily volume at the Northville location of 200,000 Mcf of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 30, 1982, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 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. 82-25226 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 3262-002 and 3263-002]

Modesto Irrigation District; Surrender of Preliminary Permits

September 8, 1982.

Take notice that Modesto Irrigation District (MID), Permittee for the Canyon Creek Dam Project No. 3262 and the Dennett Dam Project No. 3263, has requested that its preliminary permits for the subject projects be terminated. The permit for Project No. 3262 was issued on July 27, 1981, and would have expired on December 31, 1982. The project would have expired on December 31, 1982. The project would have located on Canyon Creek in Trinity County, California. The permit for Project No. 3263 was issued on February 24, 1981, and would have expired on January 31, 1984. The Dennett Dam Project would have been located on Tuolumne River in Modesto, California.

MID filed its requests on August 9, 1982, and the surrender of the permits for Projects Nos. 3262 and 3263 are deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25211 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-460-000]

Mountain Fuel Supply Co.; Application

September 9, 1982.

Take notice that on August 2, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-460-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of two existing interconnections for the sale of natural gas to Wycon Chemical Company (Wycon) on a best-efforts, interruptible basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to utilize two existing points of interconnection between its interstate transmission facilities and those of Colorado Interstate Gas Company (CIG) in Sweetwater County, Wyoming, as delivery points for the purpose of selling natural gas directly to Wycon on a limited term, best-efforts, interruptible basis. Applicant states that Wycon intends to use the gas purchased from Applicant as a feedstock and as a boiler and heating fuel at its Cheyenne, Wyoming, chemical plant.

It is stated that Applicant and Wycon entered into a gas purchase and sale agreement on June 3, 1982, that provides for the delivery of gas by Applicant at either of the proposed delivery points for an initial term of four years from the date of first delivery. Applicant states that Wycon would purchase a minimum of 292,000 dt of natural gas per month.

Applicant further explains that Wycon has amended its gas purchase contract with Cheyenne Light, Fuel & Power Company, its current natural gas supplier, and has entered into a long-term transportation contract with CIG to provide for the transportation of Wycon's gas through their respective systems for ultimate delivery to Wycon in Cheyenne, Wyoming.

It is stated that Applicant would charge Wycon an initial rate of $2.8037 per dt for the first 292,000 dt per month and $2.2900 for all deliveries over 292,000 dt per month and that these rates are to vary directly as Applicant's gas cost rates for Wyoming of retail sales vary according to Public Service Commission of Wyoming procedures.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to 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.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25227 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6583-000]

Mountain West Hydro, Inc.; Application for Preliminary Permit

September 9, 1982.

Take notice that Mountain West Hydro, Inc. (Applicant) filed on August 10, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6583 to be known as the Clarence Creek Project located on Clarence Creek within Siuslaw National Forest in Tillamook County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Carl Rounds, 1885 West Washington Street, Stayton, Oregon 97383, and K. Marshall Volpa, 1885 West Washington Street, Stayton, Oregon 97383.

Project Description.—The proposed project would consist of: (1) a 6-foot-high diversion structure; (2) a 30-inch-diameter, 4,300-foot-long penstock; (3) a surge tank; (4) a powerhouse to contain a single generating unit with a rated capacity of 870 kW, operating under a head of 409 feet; (5) a 1,050-foot-long, 14-kV transmission line to tie into an existing line. The estimated average annual energy output is 3,030,960 kWh.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which the Applicant would conduct engineering, environmental and economic feasibility studies, and prepare an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is $77,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 19, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before November 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 17, 1983.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 19, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 25212 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-458-000]

Natural Gas Pipeline Company of America; Application

September 9, 1982.

Take notice that on August 2, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-458-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on a firm basis of up to 175,000 Mcf of natural gas per day on behalf of Michigan Wisconsin Pipe Line Company (Mich Wisc) and the construction of facilities to effectuate the transportation. Pursuant to Section 385.212 of the Commission's Rules (18 CFR 385.212), Applicant moves that the application be consolidated with the applications of American Natural Rocky Mountain Company (American Natural) in Docket No. CP81-328-000 and Colorado Interstate Gas Company (CIG) in Docket No. CP81-328-000, and Panhandle Eastern Pipe Line Company (Panhandle), Docket No. CP80-34-002. Applicant's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport gas for Mich Wisc as an alternative to applications currently on file in the dockets of American Natural, a subsidiary of Mich Wisc, and CIG. It is stated that the projects proposed in those dockets would move natural gas from the Overthrust Area of Wyoming to interconnections with existing major interstate pipeline systems for redelivery of substantial quantities of Rocky Mountain gas to eastern and midwestern markets. Applicant submits, however, that it can provide the services proposed in those dockets in a more economical manner in conjunction with the Trailblazer segment of the Trailblazer system.

Applicant states that the Trailblazer Pipeline System was certificated in Docket No. CP79-80 by order issued March 12, 1982, and that the pipeline is currently under construction and is expected to become operational about October 1, 1982. Applicant states that it would transport Mich Wisc's gas from the interconnection of Applicant's facilities and the terminus of the Trailblazer segment near Beatrice, Nebraska, to a new redelivery point with Mich Wisc in Meade County, Kansas. Applicant proposes to construct tap and meter facilities at a cost of approximately $456,000 at the Meade County interconnection.

Applicant submits that American Natural's proposal would require construction of 5,200 horsepower of compression and 634 miles of 24-inch and 20-inch diameter pipeline extending from Fremont County, Wyoming, to Kiowa County, Kansas, at a cost of $231,153,990, to deliver 175,000 Mcf of gas per day. It is stated that CIG's alternative would consist of 16,220 horsepower of compression and approximately 300 miles of 20-inch, 26-inch, and 30-inch diameter pipeline looping in seven segments in Wyoming, Colorado, Kansas, and Oklahoma at an estimated cost of $144,900,000 to deliver 125,000 Mcf of gas per day to Mich Wisc and 400,000 Mcf of gas per day for Panhandle. Applicant states that the Trailblazer segment, as certificated, would have a capacity of 525,000 Mcf of gas per day when the already authorized compression is installed which could provide sufficient capacity to transport Mich Wisc's estimated volumes which are expected to build up gradually to about 175,000 Mcf of gas per day. Applicant states that Trailblazer Pipeline Company anticipates it can accommodate these volumes at least through 1986 using already authorized facilities.

The application states that there are no contracts with the shippers for the proposed service.

Applicant proposes to charge Mich Wisc for the transportation service

offered here a monthly demand charge of $2.23 per million Btu of monthly contract demand, which equates to 7.3 cents per million Btu converted to a monthly demand rate per million Btu of daily contract demand.

It is stated that this application complements the Trailblazer proposal and together they represent a superior partial alternative to either the Pathfinder project of American Natural pending at Docket No. CP81-301-001 or the CIG system extension pending at Docket No. CP81-328-000. Applicant asserts that in large part, these three projects are mutually exclusive and duplicative and therefore consolidation is the only effective and efficient method of according due consideration to the relative merits of competing applications.

Applicant maintains that the savings resulting to Mich Wisc from the combined Trailblazer-Natural proposal as compared with the Pathfinder alternative are shown on the following table:

UNIT COST/SAVINGS COMPARISON

Throughput (Mcf per day)	American Natural's proposal (Mcf)	Natural's proposal (Mcf)	Annual savings (millions)
777,000	$1.04	$0.621	$11.9
1,066,000	.804	.597	8.1
1,221,000	.723	.586	6.1
1,425,000	.643	.572	3.7
1,750,000	.554	.552	.1

As the chart shows, utilizing American Natural's own volume projections, the Trailblazer-Natural proposal would result in savings of some $30 million over the initial five years, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a preceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25228 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-8641-000 *et al.*]

New England Power Co.; Refund Report

September 8, 1982.

Take notice that on August 31, 1982, New England Power Company filed a refund report pursuant to the Commission's direction.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 23, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25229 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-161-000]

New England Power Co.; Refund Compliance Report

September 8, 1982.

Take notice that on August 26, 1982, New England Power Company filed a refund compliance report pursuant to the Commission's order issued August 2, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 23, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25230 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4462-001]

North Valley Land Corp.; Surrender of Preliminary Permit

September 8, 1982.

Take notice that North Valley Land Corporation, Permittee for the proposed Limedyke Project No. 4462, has requested that its preliminary permit be terminated. The permit was issued on September 29, 1981, and would have expired February 28, 1983. The proposed project would have been located on the Indian Valley Creek in Trinity County, California.

The Permittee filed its request on August 13, 1982, and the surrender of the preliminary permit for Project No. 4462 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25213 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-467-000]

Southern Natural Gas Co.; Application

September 9, 1982.

Take notice that on August 5, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP82-467-000 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, a measuring station, and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement with ARCO Oil and Gas Company, Division of Atlantic Richfield Company (ARCO) dated April 7, 1982, Applicant states that it acquired a right to purchase the natural gas reserves to be produced from Block 703 and the north half of the northwest quarter of Block 710, Matagorda Island Area, offshore Texas. In order to transport the volumes of gas that Applicant would purchase from

ARCO. Applicant seeks authorization to construct and operate approximately 9.5 miles of 16-inch pipeline, measuring facilities, and certain related and appurtenant facilities. The proposed 9.5 miles of 16-inch pipeline would extend from ARCO's platform in Matagorda Island Block 703 to an existing subsea point of interconnection with the Matagorda Offshore Pipeline System facilities in Matagorda Island Block 686. The proposed measuring facilities would be installed on ARCO's production platform in Matagorda Island Block 703.

It is estimated that the proposed facilities would cost $9,866,095, which cost would be financed initially by short-term financing and/or from cash on hand, and ultimately from permanent financing.

It is asserted that the proposed facilities would enable Applicant to maintain adequate and reliable natural gas service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25231 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-499-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Columbia Gulf Transmission Co. and United Gas Pipe Line Co.; Application

September 9, 1982.

Take notice that on August 19, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP82-499-000 a joint 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 pipeline and related facilities to connect gas reserves offshore Louisiana and the transportation of natural gas for Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to construct and operate approximately 15.9 miles of 12-inch pipeline extending from the producer platform in South Pass (SP) Block 49, offshore Louisiana to Tennessee's and Columbia Gulf's SP Block 55 central gathering platform offshore Louisiana. In addition, Applicants request authorization to construct and operate 2.9 miles of 10-inch pipeline extending from the producer platform in Mississippi Canyon (MC) Block 63 to the proposed 12-inch pipeline on the SP Block 49 platform. The estimated total direct cost of the proposed facilities is $21,998,000, which would be shared in the following percentages: Tennessee 18.25 percent, Columbia Gulf 18.25 percent, Gulf 43.50 percent, and United 20.00 percent. Ownership would be shared in the following percentages: Tennessee 40 percent, Columbia Gulf 40 percent, and United 20 percent. Gulf would be entitled to utilize up to 17,400 Mcf per day of Tennessee's and Columbia Gulf's portion of the capacity of the facilities.

The proposed facilities would enable Applicants to attach gas reserves presently committed and to be committed to them from SP Block 49 and MC Block 63 for transportation and delivery into Project SP 77 for further delivery onshore and to transport gas for Gulf. Applicants assert that the SP Block 49 field, including MC Block 63, contains total estimated recoverable reserves of 165,500,000 Mcf, with a maximum daily deliverability of 40,000 Mcf.

Applicants would need the gas expected to be available from the reserves to be attached by the facilities proposed herein to maintain their long-term reserve and deliverability base which would ensure adequate future service to their customers.

It is indicated that the cost of the proposed facilities would be financed initially with funds on hand, funds generated internally, borrowings under revolving credit agreements or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25232 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-457-000]

Trailblazer Pipeline Co.; Application

September 9, 1982.

Take notice that on August 2, 1982, Trailblazer Pipeline Company (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-457-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on a firm basis of up to 175,000 Mcf of natural gas per day on behalf of Michigan Wisconsin Pipe Line Company (Mich Wisc), through its segment of the Trailblazer Pipeline System. Pursuant to Section 385.212 of the Commission's Rules (18 CFR 385.212) Applicant moves that this application be consolidated with the applications of American Natural Rocky Mountain Company (American Natural) in Docket No. CP81-301-001, Colorado Interstate Gas Company (CIG) in Docket No. CP81-328-000, and Panhandle Eastern Pipe Line Company (Panhandle) in Docket No. CP80-34-002. Applicant's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Mich Wisc as an alternative to pending proposals currently on file in the applications of American Natural, a subsidiary of Mich Wisc, and CIG. It is stated that the projects proposed in those dockets would move natural gas from the Overthrust area of Wyoming to interconnections with existing major interstate pipeline systems for redelivery of substantial quantities of Rocky Mountain natural gas to eastern and midwestern markets. Applicant submits, however, that it can provide the services proposed in those dockets in a more economical manner, without the certification of any new facilities, through the Trailblazer segment.

Applicant states that it was authorized to construct and operate the Trailblazer system in Docket No. CP79-80 and that the pipeline is currently under construction and is expected to become operational about October 1, 1982.

It is submitted that American Natural's proposal would require construction of 5,200 horsepower of compression and 634 miles of 24-inch and 20-inch diameter pipeline extending from Fremont County, Wyoming, to Kiowa County, Kansas, at a cost of $231,990 to deliver 175,000 Mcf of gas per day. It is further stated that CIG's alternative would consist of 16,220 horsepower of compression and approximately 300 miles of 20-inch, 26-inch and 30-inch diameter pipeline looping in seven segments in Wyoming, Colorado, Kansas and Oklahoma at an estimated cost of $144,900,000 to deliver 125,000 Mcf of gas per day to Mich Wisc and 400,000 Mcf of gas per day for Panhandle. It is stated that the Trailblazer segment, as certificated, would have a capacity of 525,000 Mcf of gas per day when the already authorized compression is installed which would provide sufficient capacity to transport Mich Wisc's estimated volumes which are expected to build up gradually to about 175,000 Mcf of gas per day. Applicant anticipates it could accommodate these volumes at least through 1986 using already certificated facilities.

It is stated that, based on a contract demand of 175,000 Mcf of gas per day, the demand and commodity rates charged to Mich Wisc would be $8.13 per month per Mcf of contract demand and $21.21 per Mcf respectively.

With respect to American Natural's proposal, Applicant submits that its proposal would result in savings of over $45,000,000 during the initial five years of operation.

Throughout per day (Mcf)	Americans natural's proposal (Mcf)	Natural proposal's (Mcf)	Annual savings (million)
77,700	$1.04	$0.548	$14.0
106,600	.804	.524	10.9
122,100	.723	.513	9.4
142,500	.643	.499	7.5
175,000	.554	.479	4.8

The application states that there are no contracts with the shippers for the proposed service.

Applicant asserts that its proposal is superior to those of American Natural and CIG and that in large part the three are mutually exclusive and duplicative. Applicant states that consolidation is the only efficient and effective method of according due consideration to the relative merits of competing applications.

Any person desiring to be heard or to make any protest with reference to said application or motion should on or before September 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25233 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-121-000]

Utah Power & Light Co.; Compliance Filing

September 8, 1982.

The filing company submits the following:

Take notice that on August 31, 1982, Utah Power & Light Company filed its Compliance Report pursuant to the Letter Orders of the Commission issued on July 1, 1982 and Extension of Time Order dated July 26, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 23, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25214 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-750-000]

Washington Water Power Co.; Filing

September 8, 1982.

Take notice that on August 30, 1982, Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers as to a "Capacity Sales Agreement" between Washington and the City of Seattle, Department of Lighting (Seattle) for the sale of capacity. Washington states that the capacity will be made available to Seattle from December 1, 1982 through February 28, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All Such motions or protests should be filed on or before September 21, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25216 Filed 9-13-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Consolidated Reports of Condition and Consolidated Reports of Income (State Banks not members of the Federal Reserve System)

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Comments should be received within 60 days following publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389-4351.

SUMMARY: The proposed information collection involves an addition to the Consolidated Reports of Condition and Income (Call Reports). This addition is to be made to the reports that will be filed as of December 31, 1982. The schedule to be added is: Supervisory Supplement 1—"Past Due, Nonaccrual, and Renegotiated Loans and Lease Financing Receivables." The FDIC will collect this supplemental schedule from all 8,930 insured state nonmember commercial banks.

Information collected in Supervisory Supplement 1 will be used for specific supervisory purposes, including the scheduling, planning, and conducting of onsite bank examinations, and for the effective discharge of the FDIC's responsibilities as the insurer of deposits of state nonmember, state member, and national banks.

It is estimated that the collection of supplement 1 will create a reporting burden of about one hour per filing of each of the 8,930 respondent banks.

Dated: September 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-25122 Filed 9-13-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

[Docket Number (N81)]

Offer to Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Notice of offer to provide reinsurance against excess aggregate loss resulting from riots or civil disorders.

SUMMARY: The Federal Insurance Administrator is publishing in this notice the terms and conditions of the Standard Reinsurance Contract for 1982-83 governing reinsurance under the Federal insurance program reinsuring against excess aggregate losses resulting from riots or civil disorders to eligible insurers for the contract year from October 1, 1982, to September 30, 1983. In addition, this notice sets forth the offer to provide reinsurance to eligible insurers and the method for accepting the offer. This offer and the contract set forth are authorized by law under legislation now pending. If the pending legislation is not enacted by September 30, 1982 this offer is withdrawn pending enactment of Legislation.

In accordance with the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, (the Act) this offer is effective only in a State which has a FAIR plan in compliance with the statutory or regulatory criteria and in which appropriate State legislation is effective and in compliance with the Act and regulations.

The Federal Riot Reinsurance will not be available under this offer in other States until and unless their FAIR plans come into compliance with the statutory and regulatory requirements, as of October 1, 1982, or subsequently during the contract year.

DATES: The offer is effective September 14, 1982. The contract is effective 12:01 a.m., e.s.t., October 1, 1982 for all acceptance dispatched before 12:00 p.m. (midnight), September 30, 1982. The contract is effective 12:01 a.m., e.s.t., of the day following dispatch of the acceptances for acceptances dispatched after September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Federal Riot Reinsurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, telephone number—(202) 287-0800.

SUPPLEMENTARY INFORMATION: The purposes of this notice are:

(1) To offer publicly Federal reinsurance against excess aggregate losses resulting from defined riots or civil disorders to insurers eligible for such reinsurance for the contract year which ends September 30, 1983;

(2) To provide the method by which the offer may be accepted; and

(3) To set forth the terms and conditions of the Standard Reinsurance Contract (1982–83).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the October 1, 1982, to September 30, 1983 contract year must appear in time for acceptance by eligible insurers on or before September 30, 1982, this notice of offer to provide reinsurance against excess aggregate losses resulting from riots or civil disorders is effective upon publication of this notice in the **Federal Register.**

The Standard Reinsurance Contract (1982–83) provides for an aggregate basic premium rate of $0.25 per $100 of direct premiums earned on lines reinsured.

Both the aggregate basic premium and the additional premium, if any, are payable on an advance estimated basis as specified in the contract. Interest shall accrue at nine percent (9%) per annum on any portion of any amount due the reinsurer which is not paid to the reinsurer within 30 days from its due date.

The offer to provide reinsurance is as follows:

Offer To Provide Reinsurance

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (12 U.S.C. 1749bbb–1749bbb–12), subject to all regulations promulgated thereunder and, to the terms and conditions set forth in the Standard Reinsurance Contract (1982–1983) as printed below, the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") offers to enter into the Standard Reinsurance Contract (1982–83), the terms and conditions of which are as printed hereinbelow, with any eligible insurer which accepts this offer. This offer is effective only in a State which has in effect a FAIR plan in compliance with the Reinsurer's statutory or regulatory criteria and in which appropriate state legislation is effective and complies with the Reinsurer's statutory or regulatory criteria. The Reinsurer's offer to provide reinsurance is effective upon publication in the **Federal Register.**

Method of Acceptance of Offer

(1) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the Reinsurer. If the date and time of dispatch of the notice of acceptance are not later than midnight, e.s.t., September 30, 1982 reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., October 1, 1982. If the date and time of dispatch of the notice of acceptance are later than midnight, e.s.t., September 30, 1982, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., on the day after such notice of acceptance is dispatched. The date and time of dispatch of the notice of acceptance must be clearly shown either by telegraph dispatched notation or postmark, and such notation or postmark shall be conclusive proof of the date and time of dispatch.

(2) The telegram or letter accepting this offer of reinsurance shall indicate the States in which reinsurance on lines of mandatory coverage is to be provided and all specifically designate for each such State the lines of optional coverage, if any, for which reinsurance is to be provided. The notice of acceptance shall be in substantially the following form:

The (name and insurer or insurers) hereby accepts the offer, as filed with the Office of the **Federal Register**, of the Standard Reinsurance Contract (1982–83), pursuant to the Urban Property Protection and Reinsurance Act of 1968, as amended, for the mandatory and (specify) optional lines in the following states: (specify).

(3) Any eligible insurer accepting this offer or reinsurance shall be supplied copies of the Standard Reinsurance Contract (1982–83), for execution and return to the Reinsurer.

Terms and Conditions of the Standard Reinsurance Contract (1982–83)

(At this point in the contract, the insurance company or companies reinsured are required to list the names and addresses of the principal company and all property insurance companies under common or related ownership or contol as defined in the contract, and space is provided for the execution of the contract by the parties.)

This contract, made by and between the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") and the company or companies specified above (hereinafter referred to as the "Company").

Witnesseth:

Subject to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and to the terms and conditions herein set forth, the Reinsurer hereby obligates itself to pay, as reinsurance of the company, the amount of the Company's excess aggregate losses resulting from riot or civil disorders in such lines of mandatory and optional coverage as are designated separately for each State by the Company in its notice of acceptance and confirmed under Section XVII.

Section I. Policies reinsured.—This Standard Reinsurance Contract applies to:

(A) All policies or contracts of direct property insurance issued by the Company to any property owner, except for policies for which the business is handled for or through any State pool or any other continuing organization, pool, or association of insurers, and

(B) The Company's participations in State pools and, as may be approved by the Reinsurer, in other continuing organizations, pools, or associations of insurers, which policies, contracts, or participations are in force on the effective date hereof or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed below as are designated separately for each state by the Company in its notice of acceptance and confirmed under Section XVII.

Lines of Mandatory Coverage

(A) Fire and extended coverage;
(B) Vandalism and malicious mischief;
(C) Other allied lines of fire insurance;
(D) Burglary and theft; and
(E) Those portions of multiple peril policies covering similar perils to those provided in (A), (B), (C), (D);

Lines of Optional Coverage

(F) Inland marine;
(G) Glass;
(H) Boiler and machinery;
(I) Ocean marine;
(J) Aircraft physical damage.

Section II. Premiums.—The aggregate basic premium due the Reinsurer for the reinsurance coverage provided under this contract shall be computed by applying an annual rate of twenty-five hundreths of one per centum (.25%) to a aggregate premium base consisting of the sum of the products of the Company's direct premiums earned in each State for each reinsured line for the calander year 1982 multiplied by the specified percentage of such earned premium, as defined in Section XVI of this contract.

If the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between October 1, 1982, and

September 30, 1983, exceeds the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts, the Company shall be obligated to pay the Reinsurer, at or subsequent to adjustment, an additional premium determined on the basis of the amount of the remainder derived by subtracting the total amount of all excess aggregate basic premiums paid or payable to the Reinsurer under all such contracts from the total amount of all aggregate losses paid by the Reinsurer under all such contracts. The amount of the additional premium shall be equal to the product of the Company's aggregate basic premium multiplied:

By a factor of one-half, if the remainder is equal to or less than one-half of the total amount of all aggregate basic premiums under all such contracts;

By a factor of one, if the remainder is greater than one-half the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to one times that amount;

By a factor of one and one-half, if the remainder is greater than one times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to one and one-half times that amount;

By a factor of two, if the remainder is greater than one and one-half times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to two times that amount;

By a factor of two and one-half, if the remainder is greater than two times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to two and one-half times that amount;

By a factor of three, if the remainder is greater than two and one-half times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three times that amount;

By a factor of three and one-half, if the remainder is greater than three times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three and one-half times that amount;

By a factor of four, if the remainder is greater than three and one-half times the total amount of all aggregate basic premiums under all such contracts.

An advance premium, which shall be an estimated premium only, shall be computed by the Company on the basis of its direct premiums earned in the calendar year 1981 in the manner required for the computation of the aggregate basic premium. If any line of insurance is added during the term of this contract for which the Company had no premium writings in 1981, the premium base for the advance premium shall be estimated State for the period from the date of attachment of coverage to the expiration date of this contract. In no event shall the advance premium be less than $25 for each State in which reinsurance is provided under this contract. The advance premium shall be paid to the Reinsurer without demand within 30 days from the effective date of coverage.

At the option of the Reinsurer and prior to adjustment, the Company shall pay the additional premium on an estimated basis. An estimated additional premium payment equal to the amount of the Company's advance premium shall be payable to the Reinsurer if the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued by the Reinsurer for the period between October 1, 1982, and September 30, 1983, exceeds the total amount of all estimated premiums collected by the Reinsurer under all such contracts (the total amount of all advance premiums plus the total amount of estimated additional premium payments). The total amount of estimated additional premium payments, whether required separately or concurrently, shall not exceed four times the amount of the Company's advance premium. The actual amount of the additional premiums shall subsequently be computed and adjusted in accordance with the provisions of the preceding paragraphs and Section VI.

With the exception of the advance premium which is due without demand of the Reinsurer within 30 days from the effective date of coverage, premium amounts shall be due 30 days after the demand of the Reinsurer. Interest shall accrue at nine per centum (9%) per annum on any portion of any premium amount which is not received on before 30 days from its due date.

The aggregate basic premium, together with any additional premium which may be due the Reinsurer in acordance with the preceding paragraphs, shall be deemed fully earned on the date that such reinsurance coverage attaches, except as otherwise provided in Section V.

Section III. Claims.—The company shall advise the Reinsurer by letter (A) of all loses from a single occurrence which exceed $50,000 and (B) whenever it appears that aggregate losses have been incurred in an amount equal to 90 percent (90%) of the Company's net retention in any State, on the basis of its direct premiums earned and reported to the Reinsurer or the Calender year 1981.

When the Company incurs aggregate losses which exceed its net retention in any State, the Company may make claim upon the Reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the Reinsurer, and following the receipt of such certifications and documentation the Reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the Reinsurer to be appropriate (including advance payments made on the basis of preliminary certifications of loss filed in advance of the final determination of the ultimate amount of losses paid), pay to the Company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

If the ultimate amount of losses to be paid by the Company has not been finally determined when the certification of loss is filed, the Company shall, in due course, file one or more supplementary certifications of loss and thereafter the Reinsurer or the Company, as the case may be, shall pay the balance due.

Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1981 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct premiums earned in reinsured lines for the calendar year 1982.

Section IV. Inception and expiration dates.—Provided the Company has requested reinsurance by States and lines of coverage on or before September 30, 1982, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t. on October 1, 1982, and shall expire at 12:00 p.m., (midnight) e.s.t. on September 30, 1983, unless sooner terminated.

If the Company applies for coverage on or after October 1, 1982, this contract shall be effective from 12:01 a.m., e.s.t. on the day after such acceptance is dispatched, as determined by the date of postmark or telegram, provided the offer is effective in any State for which the Company requests coverage specifying by State and line and providing the Company otherwise complies with the eligibility requirements of this contract.

This contract applies only to losses occurring during the term hereof, as follows:

(A) If at the inception of this contract any riot or civil disorder is in progress,

no coverage shall be provided for losses resulting therefrom unless this contract is a continuation of coverage from the previous year's contract.

(B) If this contract terminates while a riot or civil disorder covered hereby is in progress, no coverage shall be provided for any losses resulting therefrom which occurred after the date and time of termination of this contract.

Section V. Cancellations.—Reinsurance under this contract may be cancelled by the Company in its entirety or with respect to any State upon written notice by the Company to the Reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the Reinsurer in accordance with the provisions of this contract, subject to any adjustments which may be required under Section VI; provided, however, that no coverage shall attach under this contract if the Company has willfully concealed or misrepresented any material fact with respect thereto.

Reinsurance under this contract may be cancelled by the Reinsurer in its entirety or with respect to any State upon 30 days written notice by certified mail to the Company of such cancellation, stating one of the following reasons for cancellation: fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the Reinsurer, and the grounds set forth in the second paragraph of Section XI.

Reinsurance under this contract may be cancelled by Certified mail by the Reinsurer in its entirety or with respect to any State for one of the grounds set forth in the first paragraph of Section XI and such cancellation shall be effective immediately upon written notice to the company.

"Whenever the Reinsurer determines, in his discretion, that any cancellation of reinsurance is involuntary and without fault on the part of the Company, or voluntary on the part of the Company and the Reinsurer is furnished with a certification that the Company has or will have upon the effective date of cancellation reinsurance coverage in the private market, the premium due the reinsurer for the coverage offered under this contract shall be prorated in the ratio of:

"(a) The number of days for which coverage was provided prior to the cancellation of such coverage plus thirty, to

"(b) The total number of days of coverage provided under this contract from the inception of coverage up to and including September 30, 1983."

In the event of any cancellation of reinsurance coverage under this section, the net retention and assessment of such Company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1982. Refunds of premiums, if any, due the Company upon cancellation may, at the discretion of the Reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of Section VI hereof.

Section VI. Adjustments.—The Company shall report to the Reinsurer within 60 days after request its direct premiums earned for the calendar year 1982 in all reinsured lines in all States for which reinsurance was provided under this contract, for the purpose of computing and adjusting the reinsurance premium due to the Reinsurer with respect to the coverage provided. The direct premiums earned to be reported for any line of insurance added during the contract term for any State in which the company had no premium writings in such line in 1982 shall be the direct premiums earned for the first nine months of 1983 as estimated by the Company, subject to audit by the Reinsurer.

In no event shall the adjusted amount of direct premiums earned by the Company result in a basic premium to the Reinsurer in an amount less than $25 for each State during the contract year, which shall constitute the minimum adjusted reinsurance premium for any State under this contract.

On or before December 31, 1983, or such later date as may be permitted at the option of the Reinsurer, the Company shall report to the Reinsurer its aggregate losses.

Any overpayment or underpayment between the Reinsurer and the Company shall be adjusted and paid in accordance with the obligations assumed herein under.

Section VII. Insolvency.—In the event of insolvency of the Company the reinsurance under this contract shall be payable by the Reinsurer to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the Company under all policies, contracts, or participation shares reinsured without diminution because of the insolvency of the Company.

It is further agreed that the liquidator, or receiver, or statutory successor of the Company shall give written notice to the Reinsurer of the pendency of any claim against the Company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the Company or its liquidator, receiver, or statutory successor. The expense thus incurred by the reinsurer shall be chargeable, subject to court approval, against the Company as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

Section VIII. Errors and omissions.—Inadvertent delays, errors, or omissions made in connection with any transaction under this contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error or omission is rectified as soon as possible after discovery.

Section IX. Restriction of benefits.—No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Section X. Participation in statewide plans.—No reinsurance shall be offered or be effective under this contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available which is in compliance with the Reinsurer's statutory or regulatory criteria, and the Company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this section. Except with respect to its runoff business after ceasing to do business within a State, the Company shall not be eligible for reinsurance under this contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The Company shall file and maintain with the State insurance authority in each State in which it is participating in the Statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a

copy of each such statement with the Reinsurer. The Company shall not direct any agent, broker, or other producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The Company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to utilize the programs and facilities available under such statewide plans.

In the event that the Company after the inception of this contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the Company with respect to that State as of the effective date of the withdrawal.

Section XI. Limitations on reinsurance.—The Reinsurer shall cancel this contract upon written notice to the company: (A) If legislation to reimburse the Reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb-9(a)), paid by the Reinsurer under this contract, has not been enacted by the State or has expired or been repealed, or has otherwise ceased to be effective; or (B) following a merger, acquisition, consolidation, or reorganization involving the Company and one or more insurers with or without such reinsurance, unless the surviving insurer meets all criteria for eligibility for reinsurance and within 10 days pays any reinsurance premium due. The Reinsurer shall cancel coverage, in accordance with the provisions of this contract, with respect to any State in which—

(A) the Reinsurer has found (after consultation with the State insurance authority) that (1) it is necessary to have a suitable program adopted, in addition to required statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (2) the Company is not fully participating in the statewide plan; and, where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(B) the Reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the Reinsurer's regulatory or statutory criteria, including sections 1211 and 1223 of the National Housing Act, as amended (12 U.S.C. §§ 1749bbb-3 and 1749bbb-9), or has become inoperative.

Notwithstanding the foregoing provisions, reinsurance may at the election of the Reinsurer be continued, up to and including September 30, 1983, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this section, provided the Company pays the reinsurance premiums in such amounts as may be required. For the purposes of this section, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made effective.

Reinsurance under this contract shall be subject to all of the provisions of the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb—1749bbb-21, as amended, and to all regulations duly promulgated by the Reinsurer pursuant thereto.

Section XII. Arbitration.—If any misunderstanding or dispute arises between the Company and the Reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provisions of this contract, other than as to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the Reinsurer. The Company and the Reinsurer may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make his determination. If the Company and the Reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the Reinsurer.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the Reinsurer. The Company and the Reinsurer shall bear equally all expenses of the arbitration.

Findings, proposed awards, and determination resulting from arbitration proceedings carried out under this section shall, upon objection by the Reinsured or the Company, be inadmissible as evidence in any subsequent proceedings in any court or competent jurisdiction.

Section XIII. Access to books and records.—The Reinsurer and the Comptroller General of the United States, or other duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The Company shall keep records which fully disclose all matters pertinent to the business reinsured, including premimum and claims paid or payable under this contract. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after final adjustment of such claims.

Section XIV. Information and annual statements.—The Company shall furnish to the Reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, in such form as the Reinsurer, in cooperation with the State insurance authority, shall prescribe; and the Company shall file with the Reinsurer a true and correct copy of the Company's Fire and Casualty annual statement, or amendment thereof, as filed with the State insurance authority of the Company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The Company shall also file with the Reinsurer and equivalent of page 14 of such annual statement for each State in which reinsurance is provided under this contract.

Section XV. Exclusions.—Reinsurance under this contract shall not be applicable with respect to any claim for:

(A) All or any part of a loss which is the direct or indirect result of controlled or uncontrolled nuclear reaction, radiation, or radioactive contamination; or

(B) Any loss to any aircraft while the aircraft is in flight, including that period between the time when power is turned on for the purpose of taxiing connected to takeoff until the time when the landing run has ended, taxiing has been completed, and power has been turned off; or

(C) Any loss to any aircraft, or resulting from collision with aircraft, which is precipitated or caused by hijacking of any aircraft or attempt thereat, including loss from wrongful seizure, wrongful diversion from course of flight pattern, or wrongful exercise of command or control, of an aircraft, by any person or persons, through the use of force or violence or the threat of force or violence.

Section XVI. Definitions.—As used in this contract the term—

(1) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State and allocable to a State in which reinsurance is provided;

(2) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under this contract which, as determined by the Reinsurer:

(A) Are under common ownership and ordinarily operate on a group basis; or

(B) Are under single management direction; or

(C) Are otherwise determined by the Reinsurer to have substantially common or interrelated ownership, direction, management, or control; then all such related, associated, or affiliated companies, excluding nonadmitted companies, which are not specifically included by endorsement to this contract, shall be reinsured only as one aggregate entity;

(3) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems of insurability, such as for a particular class or type of business;

(4) "Direct premiums earned" means direct premiums earned as reported in column 2 on page 14 of the Company's Fire and Casualty annual statement for the specified calendar year in the form adopted by the National Association of Insurance Commissioners, subject to (A) adjustment as approved by the Reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (B) such other appropriate adjustments as may be approved or required by the Reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 or page 14, subject to a maximum credit of 20 percent (20%) of direct premiums earned for any one line of insurance;

(5) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of—

(A) Ninety percent of the Company's aggregate losses in excess of its net retention, until the Company's 10 percent share of aggregate losses under this provision (A) equals the amount of its net retention;

(B) Ninety-five percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A)) in excess of twice its net retention, until the Company's 5 percent share of aggregate losses under this provision (B) equals the amount of its net retention; and

(C) Ninety-eight percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A) and (B)) in excess of an amount equal to three times its net retention;

(6) "Losses" means all claims proved, approved, and paid by the Company under reinsured policies, resulting from riots or civil disorders occurring in a State during the period of this contract after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of 8 percent (8%) of the first $25,000 of any such claim, plus 3 percent (3%) of the amount by which such claim exceeds $25,000 but is less than $100,000, plus 1 percent (1%) of the amount by which the claim exceeds $100,000; it does not mean any claim excluded under Section XV.

(7) "Net retention" means the amount of aggregate losses that the Company must stand before the Reinsurer's liability hereunder attaches. The new retention shall be one aggregate figure for each State determined by applying a factor of five percent (.05) to the specified percentage of the Company's direct premiums earned in the State for the calendar year 1982 on those lines of insurance hereby reinsured. The retention amount is subject to a minimum figure of $1,000 for each State, and to a maximum figure of $3,000,000 per State.

(8) "Loss resulting from riot" means loss of or damage to property actually and immediately resulting from an overt and tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in designed concert, in the execution of a common purpose through the unlawful use of force and violence.

"Loss resulting from civil disorders" means

(A) Loss of or damage to property actually and immediately resulting from any pattern of unlawful incidents taking place within close proximity both as to time and place and involving damage to property intentionally caused by persons apparently having the primary motivation of disturbing the public peace through civil disruption, civil disobedience, or civil protest; provided that at least two of such related incidents result in property damage in excess of $1,000 each; or

(B) Loss of or damage to property actually and immediately resulting from any occurence involving property damage in excess of $2,000 caused by persons whose unlawful conduct in so causing the occurrence manifest their primary purpose of disturbing the public peace through civil disruption, civil disobedience, or civil protest.

(9) "Specified percentage" means 100 percent (100%) of the direct premium earned for each line of insurance reinsured under this contract except that the specified percentage of homeowners multiple peril shall be 85 percent (85%) and that of Commercial multiple peril shall be 65 percent (65%);

(10) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(11) "State pool" means any State Fair Plan pool or insurance placement facility which is intended to meet the requirements of Part A of the Urban Property Protection and Reinsurance Act of 1968 (82 Stat 558, 84 Stat, 1791, 12 U.S.C. 1749bbb–3—1749bbb–6a).

Section XVII. Schedule of coverage.—The Company shall indicate with an (X) in the appropriate column and line those States in which the mandatory lines are to be reinsured under this contract. Coverage of mandatory lines may be designated only for those States in which the Company is eligible for reinsurance in accordance with Section X of this contract.

The Company shall also indicate by State with an (X) in the appropriate column and line any optional lines which are to be reinsured under this contract. Coverage of optional lines is available only for those States in which the mandatory lines are reinsured.

(The schedule of mandatory and optional coverage by State and line is set forth at this point in the Contract.)

Issued at Washington, D.C., on August 24, 1982.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 82-25000 Filed 9-13-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2183]

Consolidated Materiel Expediting, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean

freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Consolidated Materiel Expediting, Inc., P.O. Box 3786, Wilmington, NC 28406 was cancelled effective September 1, 1982.

By letter dated August 10, 1982, Consolidated Materiel Expediting, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2183 would be automatically revoked unless a valid surety bond was filed with the Commission.

Consolidated Materiel Expediting, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2183 be and is hereby revoked effective September 1, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2183 issued to Consolidated Materiel Expediting, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Consolidated Materiel Expediting, Inc.

Allbert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-25157 Filed 9-13-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Intership, Inc., 6983 N.W. 43rd Street, Miami, FL 33125. Officers: Luisa Bonich, Vice President/Director, Pablo Ferraro, President/Director/Secretary/Treasurer, Miguel Ferraro, Director, Felipe Ferraro, Director.

By the Federal Maritime Commission.

Dated: September 8, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25158 Filed 9-13-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2236-R]

Mary Y. Upton, d.b.a. Houston Expeditors; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintained a valid bond on file.

The bond issued in favor of Mary Y. Upton, d.b.a. Houston Expeditors, 8144 Niles, Houston, TX 77017 was cancelled effective September 1, 1982.

By letter dated August 10, 1982, Mary Y. Upton, d.b.a. Houston Expeditors, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2236-R would be automatically revoked unless a valid surety bond was filed with the Commission.

Mary Y. Upton, d.b.a. Houston Expeditors has failed to furnish a valid bond.

By virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2236-R be and is hereby revoked effective September 1, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2236-R issued to Mary Y. Upton, d.b.a. Houston Expeditors be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Mary Y. Upton, d.b.a. Houston Expeditors.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-25156 Filed 9-13-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Septemer 8, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3181)

OMB Reviewer—Michael Abrahams—

Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for the Addition of a Report to the Existing Report Package

1. Report title: Supervisory Supplement 1 (Past-Due, Nonaccrual, and Renegotiated Loans and Lease Financing Receivables) to the Report of Condition and Income.

Agency form number: FFIEC 010-015.

Frequency: quarterly.

Reporters: state member banks.

SIC Code: 602pt.

Small businesses are affected.

General description of report: approximately 4,084 responses; approximately 119,702 hours needed to complete the entire Call and Income report package on an annual basis; an average of 29 hours per response; respondent's obligations to reply is mandatory (12 U.S.C. 324); a pledge of confidentiality is promised for Supervisory Supplement 1 up to June 1983 (all other elements of the package are available to the public) cost to the public of the entire Call and Income Report package is approximately $2,394,040; cost to the Federal Government is $333,453; 1 supplement to existing package submitted for approval; the report is not being reviewed under section 3504(h) of Pub. L. 96-511.

The Federal Reserve has submitted a proposal amending the proposal submitted earlier to OMB on the addition of a past-due schedule to the quarterly Report of Condition (Call Report) submitted by state member banks. Notice of the initial proposal was published in the **Federal Register** on August 27, 1982. The current proposal differs from the initial proposal (a) by providing for implementation as of December 31, 1982, instead of September 30, 1982 and (b) by making the data available to the public beginning with the report as of June 30, 1983 rather than March 31, 1983. There are no other changes from the original proposal. The Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency have submitted similar amendments to their initial proposals.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25107 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *U.S. Bancorp,* Portland, Oregon (financing and insurance activities; Colorado): To engage, through its subsidiary, U.S. Bancorp Financial, Inc., doing business as U.S. Bancorp Financial Services, Inc., Ft. Collins, Colorado, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including the making of consumer installment loans, purchasing consumer installment and real estate finance contracts and evidences of debt, and making consumer home equity loans secured by real estate, making industrial loans, and acting as insurance agent with regard to credit life and disability insurance, solely in connection with extensions of credit by U.S. Bancorp Financial, Inc. These activities would be conducted from an office in Ft. Collins, Colorado, serving the city of Ft. Collins, Colorado. Comments on this application must be received not later than October 8, 1982.

2. *Wells Fargo & Company,* San Francisco, California (finance, leasing, and insurance activities; Western United States): Proposes to engage through its subsidiary, Wells Fargo Credit Corporation, in making or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commercial loans secured by a borrower's or a guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property in accordance with the Board's Regulation Y; and acting as agent for credit life or accident and health insurance related to its extensions of credit. These activities would be conducted from an office in Dallas, Texas, serving Texas, Arkansas, Louisiana, New Mexico, and Oklahoma. Comments on this application must be received not later than October 8, 1982.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25263 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With Respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Wakulla Bancorp,* Crawfordville, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Wakulla County State Bank, Crawfordville, Florida. Comments on this application must be received not later than October 8, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Bank Services, Inc.,* Abilene, Kansas; to become a bank holding company by acquiring 91.75 percent or more of the voting shares of The Citizens Bank of Abilene, Abilene, Kansas. Comments on this application must be received not later than October 8, 1982.

2. *Harper Bancshares, Inc.,* Harper, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank in Harper, Harper, Kansas. Comments on this application must be received not later than October 8, 1982.

C. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Cook Investment, Inc.,* Beatrice, Nebraska; to become a bank holding company by acquiring 80.7 percent of the voting shares of Beatrice National Corporation, Beatrice, Nebraska and thereby indirectly acquire Beatrice National Bank & Trust Company, Beatrice, Nebraska. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than October 8, 1982.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25286 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (mortgage banking and related lending and insurance activities; Florida): To engage through its indirect subsidiary, Chase Home Mortgage Corporation of the Southeast, Miami, Florida, to make or acquire, for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties; to service loans and other extensions of credit for any person; to sell mortgage loans in the secondary market; and to offer mortgage term life insurance, accident and health insurance and disability insurance indirectly related to such lending and servicing activities. These activities will be conducted from an office located in Winter Park, Florida, serving Northeast Central Florida; Orange, Seminole, Osceola, Brevard, Lake, Volusia and Marion Counties. Comments on this application must be received not later than October 12, 1982.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation.* Baltimore, Maryland (commercial financing activities, Michigan, Minnesota and Wisconsin): To engage through its subsidiary, Maryland National Industrial Finance Corporation, in the following activities: engaging generally in commercial lending operations, including but not limited to financing of accounts receivable, inventories, and other types of secured and unsecured loans to commercial enterprises; servicing commercial loans for affiliated or non-affiliated individuals, partnerships, corporations or other entities; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from an office in Brookfield, Wisconsin, serving the states of Michigan, Minnesota and Wisconsin. Comments on this application must be received not later than October 7, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

Correction

This notice corrects a previous **Federal Register** document (FR Doc 82-24669) published at page 39721 of the issue for September 9, 1982.

1. *Union Planters Corporation,* Memphis, Tennessee (leasing, management consulting, and data processing activities; Tennessee): To engage through its subsidiary, Union Planters Automated Services, Inc., in leasing, management consulting, and data processing activities. These activities would be conducted from an office in Memphis, Tennessee, and would serve Memphis and the surrounding area. Comments on this application must be received not later than October 1, 1982.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Lloyds Bank Plc.,* London, England (financial advisory, leasing, and servicing activities; United States, Canada, and Central and South America): To engage through a *de novo* subsidiary, in the activity of rendering financial advisory services to companies, including advice as to types of debt or leasing arrangements for a customer and assistance in the obtaining and servicing of such financing from appropriate sources. These activities would be conducted from an office in New York, New York serving the United States, Canada and Central and South America. Comments on this application must be received not later than October 8, 1982.

Board of Governors of the Federal Reserve Systems, September 9, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25268 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Banco Latino International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Banco Latino International, Miami, Florida. Banco Latino International would operate as a subsidiary of Banco Latino, C.A., Caracas, Venezuela. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 7, 1982. 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, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25264 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Proposed Retention of Citicorp Futures Corporation

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of its subsidiary, Citicorp Futures Corporation, New York, New York.

Applicant states that the subsidiary would engage *de novo* in the activities of a futures commission merchant for non-affiliated persons in the executive and clearance of futures contracts covering bullion, foreign exchange, U.S. Government securities and money market instruments or major commodity exchanges. As a part of these activities, Citicorp Futures Corporation will provide its clients with the necessary support services, including research, communications, operations, and advice, which will facilitate the client's efforts to integrate futures into its cash market activities. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 7, 1982.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25265 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Hong Kong and Shanghai Banking Corporation Kellett, N.V. and HSBC Holdings B.V. Proposed Acquisition of Tozer Kemsley & Millbourn (USA) Holdings, Inc.

The Hong Kong and Shanghai Banking Corporation, Hong Kong, B.C.C., Kellett, N.V., Curacao, Netherlands Antilles, and HSBC Holdings B.V., Amsterdam, the Netherlands have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4 (b) (c)), for permission to indirectly acquire voting shares of Tozer Kemsley and Millbourn (USA) Holdings, Inc., and its subsidiaries, Tozer Kemsley and Millbourn (USA) Inc., both of New York, New York and TKM Mid Americas, Inc., Coral Gables, Florida.

Applicant states that the proposed subsidiary would engage in the activities of making extensions of credit such as would be made by a "confirming house" for the financing of U.S. exports and the servicing of such extensions of credit. These activities would be performed from offices of Applicant's subsidiary in New York, New York and Coral Gables, Florida, serving the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than October 1, 1982.

Board of Governors of the Federal Reserve System, September 9, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25269 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

Westbrand, Inc.; Formation of Bank Holding Company

Westbrand, Inc., Minot, North Dakota, 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 100 percent of the voting shares of First Western State Bank of Minot, Minot, North Dakota. 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)).

Westbrand, Inc., Minot, North Dakota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Westbrand Agency, Inc., Minot, North Dakota.

Applicant states that the proposed subsidiary would engage in the activities of an insurance agency, selling credit life, accident and health insurance exclusively to bank customers. These activities would be performed from offices of Applicant's subsidiary in Minot, North Dakota, and the geographic area to be served in North Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 7, 1982.

Board of Governors of the Federal Reserve System, September 8, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25267 Filed 9-13-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee Meeting:

Name: Immunization Practices Advisory Committee
Dates: October 18-19, 1982
Place: Conference Room 207, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333
Time: 8:15 a.m.
Type of Meeting: Open
Contact Person: J. Michael Lane, M.D., Acting Executive Secretary of Committee, Centers for Disease Control (1-3007), 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: FTS: 236-3771, Commercial 404/329-3771
Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.
Agenda: The Committee will initiate review and update its recommendations on routine childhood immunizations, Hepatitis B, Japanese B encephalitis, polio and mumps vaccines; will discuss such topics as the NIAID H. flu workshop, the swine flu stockpile, guidelines for hospital workers, and the report of the interagency working group; and will consider other matters of relevance among the Committee's objectives.
Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 7, 1982.

Walter R. Dowdle,

Acting Director, Centers for Disease Control.

[FR Doc. 82-25121 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 81D-0175]

Defect Action Levels for Histamine in Tuna; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of FDA Compliance Policy Guide 7108.24 containing regulatory defect action levels for histamine in tuna fish. FDA has determined that a histamine level of 20 milligrams (mg) per 100 grams (g) in canned albacore, skipjack, and yellowfin tuna indicates that substantial decomposition has occurred and that a level of histamine above 50 mg per 100 g is a potential health hazard.

ADDRESS: Written comments on this defect action level and requests for single copies of FDA Compliance Policy Guide 7108.24 may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the past, the analytical procedure that FDA used to determine decomposition in canned tuna was a sensory evaluation of spoilage odors. For regulatory purposes this procedure required that positive findings be confirmed by two individuals who are recognized as experts in sensory evaluation methods (organoleptic testing).

In order to establish more precise chemical indices of decomposition, the agency conducted a study of the relationship of histamine formation to the spoilage of certain scombroid fish, such as tuna. The data gathered during this study revealed that the histamine levels in tuna of acceptable quality (based on organoleptic and physical analysis) are on the order of 1 to 2 mg per 100 g of tuna and that histamine levels increase as decomposition progresses.

The data indicate that commercially caught and processed canned tuna of acceptable quality contains, on the average, less than 2.0. mg histamine per 100 g of fish and that 10 mg of histamine may be an indicator of some histamine-type decomposition. FDA has determined that 20 mg of histamine indicate that substantial decomposition has occurred in the fish.

On the basis of this determination, FDA will take regulatory action against any canned albacore, skipjack, or yellowfin tuna found to contain 20 mg or more of histamine per 100 g, as determined by the fluorometric method, section 18.067 to 18.071 of the thirteenth edition of the Official Method of Analysis of the Association of Official Analytical Chemists. Further, the agency will consider regulatory action against

any tuna found to contain between 10 and 20 mg of histamine per 100 g, when a second indicator of decomposition (spoilage odors or honeycomb formations) is present.

Although an exact toxic level of histamine has not been determined, it is an established fact that histamine can produce adverse reactions and is a potential health hazard. Intravenous injection of 0.5 to 1 mg of histamine into a healthy male individial may product toxic manifestations such as headact, drop in blood pressure, nausea and abdominal pain with cardiovasular collapse or marked bronchiolar constriction. It has been estimated that amount of ingested histamine necessary to induce the same toxic manifestations as those noted from a parenteral dose would be around 100 times greater, i.e., 50 to 100 mg of histamine. The consumption pattern for tuna, based on a 1965 consumer survey, shows an average serving size of approximately 98 g of tuna per person. Therefore, based on a safety factor of 100, FDA is establishing a level of 50 mg of histamine per 100 g of tuna on an interim basis as the level of histamine in tuna which the agency considers to be a health hazard.

FDA is continuing to gather data and information concerning the potential hazard to consumers from histamine-type spoilage in scombroid fish. Histamine-type spoilage is believed to be the primary mechanism in the formation of toxic products known as scombrotoxins, which consist of histamine and other histamine-like substances. However, the amount of data available in the scientific literature and FDA files on levels of histamine associated with human toxicity and the nature of scombroid poisoning is very limited. Therefore, the 50 mg histamine per 100 g tuna interim level established in this Guide may be changed after FDA has evaluated additional data.

FDA Compliance Policy Guide 7108.24 and the data from the agency study are on file in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may submit to the Dockets Management Branch written comments (preferably two copies identified with the docket number found in brackets in the heading of this document). Received comments are available for examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25109 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-01-M

Blood Products Advisory Committee; Change in Time for Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a change in the time of the Blood Products Advisory Committee meeting scheduled for September 23, 1982. The meeting will start 8 a.m. instead of 8:30 a.m. at the Lister Hill Center Auditorium, Bldg., 38A, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD. The meeting was announced in the **Federal Register** of August 17, 1982 (47 FR 35867).

FOR FURTHER INFORMATION CONTACT: Clay Sisk, National Center for Drugs and Biologics (HFB-5), Food and Drug Administration, 8600 Rockville Pike, Bethesda, MD. 20205, 301-443-5455.

Dated: September 9, 1982.

Jospeh P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25259 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

San Francisco District Office, Chaired by William C. Hill, District Director.

DATE: Tuesday, September 21, at 1 p.m.

ADDRESS: Auditorium, Clark County Health District, 625 Shadow Lane, Las Vegas, NV 89106.

FOR FURTHER INFORMATION CONTACT: Karen K. Erdman, Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, San Francisco, CA 94102, 415-556-2062.

Cincinnati District Office, Chaired by James C. Simmons, District Director.

DATE: Tuesday, September 28, at 1 p.m.

ADDRESS: Federal Building & U.S. Courthouse, Rm. 220, 85 Marconi Ave., Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm 463, Cleveland, OH 44114, 216-522-4844.

Los Angeles District Office, Chaired by Abraham I. Kleks, District Director.

DATE: Wednesday, September 29, at 10 a.m.

ADDRESS: Santa Ana Federal Bldg., 34 Civic Center Plaza, Rm. 925, Santa Ana, CA 92702.

FOR FURTHER INFORMATION CONTACT: Irene G. Caro, Consumer Affairs Officer, Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25258 Filed 9-13-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Assistant Secretary for Health

Intent To Issue an Exclusive Patent License

Pursuant to 45 CFR 6.3 of the Department of Health and Human Services patent regulations and 41 CFR Part 101-4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to Aerojet Strategic Propulsion Company an exclusive license to manufacture, use, and sell an invention of Robert E. Olsen entitled "Purification of Tetrahydrodibenzo (b,d) pyrans from Crude Synthetic Mixtures." United State Patent Application Serial Number 332,644 was filed on December 21, 1981.

Copies of the above United States patent application may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Westwood Building, Room 5A03, Bethesda, MD 20205.

The proposed license will have a duration of 5 years from the date of first commercial sale in the United States of America, or 8 years from the date of the license, whichever occurs first, may be royalty-free, and will contain other terms and conditions to be negotiated by the parties in accordance with the

Department of Health and Human Services (HHS) Patent Regulations. HHS will grant the license unless, within (sixty) 60 days of this Notice, the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR 101-4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR 101-4)

Dated: September 3, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-25186 Filed 9-13-82; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-82-1158]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title 1 Claim for Loss
Office: Administration
Form No.: HUD-637A and HUD-637B
Frequency of submission: On Occasion
Affected public: Businesses or Other Institutions (except farms)
Estimated burden hours: 10,000
Status: Extension
Contact: Betty Belin, HUD, (202) 755-5747; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25161 Filed 9-13-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

UTAH; Final Wilderness Inventory Decision On Negro Bill Canyon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the BLM Utah State Director's wilderness inventory decision on Negro Bill Canyon (UT-060-138) within Utah. As directed by the Interior Board of Land Appeals (IBLA) in a decision dated March 15, 1982, the Utah BLM has made a reassessment of the outstanding opportunities for solitude and primitive and unconfined recreation wilderness characteristics. Included was a public comment period in which a total of 43 comments from 57 individuals were received. Although most of the comments addresssed specific issues, none provided information that was not considered by BLM in making the proposed decision as published in the **Federal Register** on May 21, 1982.

Pursuant to authority delegated by the BLM Director, it has been determined that the public lands administered by the BLM within the wilderness inventory unit (UT-060-138) in Utah have been inventoried according to the provisions of section 201(a) and 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and section 2(c) of the Wilderness Act of 1964. The appropriate inventory and associated public comment period have been conducted on approximately 9,420 acres.

The final decision is that approximately 7,620 acres is identified as a wilderness study area (WSA) with approximately 1,840 acres being dropped from further consideration as wilderness and will no longer be subject to the management restrictions imposed by section 603 of Pub. L. 94-579.

The final decision announced herein is scheduled to become effective on October 14, 1982, or 30 days after publication of this notice. For purposes of this decision, this unit is considered separable from every other unit under wilderness review. Should any amendment to this decision be made by the Utah BLM State Director as a result of new information received following this announcement, that amendment will be formally published in the **Federal Register** and will not become effective until 30 days following such publication. This 30 day extension will apply only to the amendment and not to this decision.

Upon publication of this decision in the **Federal Register**, a 30 day appeal

period is initiated. Any person who has disagreement with this decision and has information which may influence the decision, may file an appeal with the Interior Board of Land Appeals by following administrative procedures applicable to formal appeals. These are published in the Code of Federal Regulations under 43 CFR, Part 4. A copy of any notice of appeal must be filed with the Utah State Director (930), Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, so that the case files can be transmitted to IBLA. To avoid summary dismissal of the appeal, these must be in strict compliance with the regulations found in 43 CFR 4.411. The rules of practice require that a copy of the notice of appeal, any statement of reasons, written arguments, or briefs, must be served on the Regional Solicitor, Intermountain Region, U.S. Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, Utah 84138, and provide proof of service in accordance with 43 CFR 4.401(c) within 15 days of filing any document in connection with an appeal.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM Wilderness Coordinator, (801) 524-4257.

Dated: September 1, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-24834 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 82-33]

Proposed Livestock Grazing Management for the Sierra Planning Unit, Folsom Resource Area, Bakersfield District, California; Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed grazing management program for the Sierra Planning Unit in parts of ten counties in central California. The proposed action allocates 10,216 AUMs to livestock and 5,877 AUMs to deer. The alternatives analyzed include no domestic livestock grazing, no action (continue with 9,674 AUMs to livestock), livestock maximization (16,093 AUMs to livestock), and watershed/wildlife maximization (5,111 AUMs to livestock).

A limited number of copies of this document are available upon request at: Folsom Resource Area, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630 (916) 985-4474, and the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825 (916) 484-4451.

In addition to the above offices, copies of this EIS are available for public reading and review at:

Division of Rangeland Management, Bureau of Land Management, Premier Building, Room 909-H, 1725 I Street, NW., Washington, D.C. 20006.

Bakersfield District Office, Bureau of Land Management, Federal Building, Room 304, 800 Truxtun Street, Bakersfield, CA 93301.

Dated: September 7, 1982.

Ed Hastey,

State Director.

[FR Doc. 82-25254 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Notice on Forms used in the Outer Continental Shelf Program

Secretarial Order No. 3071, as amended, incorporates Outer Continental Shelf (OCS) functions into the Minerals Management Service. Secretarial Order No. 3071, Amendment No. 1, states that "The Minerals Management Service shall exercise all of the functions of the Conservation Division [of the U.S. Geological Survey, and] . . . all functions related to the management of offshore energy and minerals administered by the Bureau of Land Management. . . ." Among those functions are the preparation and issuance of forms used in connection with the OCS program. Pending the exhaustion of existing supplies of U.S. Geological Survey Conservation Division (CD) and Bureau of Land Management (BLM) forms, or the overprinting of BLM and CD forms with the Minerals Management Service title, the Minerals Management Service (MMS) will continue to use BLM and CD forms; and BLM and CD forms so used shall be deemed to be MMS forms.

For further information contact: Robert Samuels, Offshore Leasing Management Division, Minerals Management Service, Department of the Interior (202) 343-5121.

Dated: September 8, 1982.

Harold Doley,

Director, Minerals Management Service.

[FR Doc. 82-25271 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-84-M

Alaska Outer Continental Shelf; Intent To Prepare an Environmental Impact Statement for a Proposed Sand and Gravel Lease Sale in the Beaufort Sea

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on a Proposed Offshore Sand and Gravel Lease Sale in the Diapir Field region of Alaska, in the Beaufort Sea. This proposed sale is tentatively scheduled for May 1983.

The primary use of any leased sand and gravel would be in the construction of artificial islands in support of offshore oil and gas exploration and production in the Diapir Field region. The area of consideration for this proposed lease sale includes the joint Federal/State Beaufort Sea (BF) Oil and Gas Lease Sale area and the proposed OCS Oil and Gas Lease Sale 71 area, together with a northerly extension out to the 30 meter isobath and an extension zone of three sets of tracts on both the eastern and western boundaries of the Sale 71 and BF Sale areas. The EIS analysis will focus on the areas within this area of consideration having potential for recovering sand and gravel resources and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the EIS include options to modify, delay, or withdraw the proposed lease offering. The draft EIS is scheduled for publication in November 1982.

Federal, State and local agencies, interested groups and individuals with questions concerning this proposed action, or those wishing to assist the Minerals Management Service in determining the scope of the EIS should contact: Judith Gottlieb, Chief, Environmental Assessment Division, Alaska Outer Continental Shelf Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276-2955, or Ralph Ainger, Minerals Management Service, Reston, Virginia 22091, telephone (202) 343-6264. Comments concerning the scope of the EIS should be received by Friday, October 1, 1982.

Dave Russell,

Deputy Director, Minerals Management Service.

September 3, 1982.

[FR Doc. 82-25136 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Georgia O'Keeffe National Historic Site Rio Arriba County, N. Mex.; Availability of a Finding of No Significant Impact for the General Management Plan/ Development Concept Plan

Pursuant to the National Environmental Policy Act of 1969, Title 40 of the Code of Federal Regulations, and Part 516 of the Departmental Manual, the National Park Service has prepared a Finding of No Significant Impact for the General Management Plan/Development Concept Plan for Georgia O'Keeffe National Historic Site, Rio Arriba County, New Mexico.

The Draft Proposal/Environmental Assessment for the General Management Plan/Development Concept Plan was distributed and made available by publication in the **Federal Register** on May 27, 1982, and a News Release in local news media sources.

A Finding of No Significant Impact has now been completed. Based on public review, input received, and on management objectives, it sets forth concepts for the future management of Georgia O'Keeffe National Historic Site, providing for visitor opportunities and resource protection of the historic site, and represents an intermediate level of development and cost.

Copies of the Finding of No Significant Impact are available at the following locations: Office of the Superintendent, Bandelier National Monument, Los Alamos, New Mexico 87544; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

It is the conclusion of the National Park Service that the proposal is not a major Federal action that will significantly affect the human environment; therefore no environmental impact statement will be prepared.

Based upon the decisions made in the Finding of No Significant Impact, a General Management Plan/ Development Concept Plan will be prepared and implemented.

Dated: August 25, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-25149 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-70-M

[Order 77, Amdt. No. 10]

Directors of National Park Service Regions; Delegations, Redelegation, and Revocation of Authority

Order No. 77, approved February 27, 1973, and published in the **Federal Register** of March 22, 1973 (38 FR 7478), is hereby amended by adding paragraph (20) as follows:

Section 1. Delegation * * *

(20) Authority to execute the Land Acquisition Program as it relates to the acceptance of options and offers to sell and purchase.

Dated: September 7, 1982.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 82-25151 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-70-M

[Order 77, Amdt. No. 11]

Directors of National Park Service Regions; Delegation, Redelegation, and Revocation of Authority

Order No. 77, approved February 27, 1973, and published in the **Federal Register** of March 22, 1973, (38 FR 7478) as amended, set forth in Section 1 the exceptions on delegations of authority, and in Section 2 certain limitations on redelegation of authority.

Section 2. paragraph 3 (38 FR 7479) is hereby amended to read as follows:

Section 2. Redelegation (3) Authority to approve land acquisition priorities may not be redelegated. Authority to execute the land acquisition program, excluding contracting for acquisition of lands and related property, and options and offers to sell related thereto, may be redelegated only to chief land acquisition officer in the Regional Office and field land acquisition officers.

Dated: September 7, 1982.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 82-25152 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held at Mesa Verde National Park, Colorado, October 3, 4, 5 and 6, 1982.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of the Advisory Board are: Dr. Robin Winks (Chairman), New Haven, CT; Dr. Douglas Anderson, Providence, RI; Dr. Kathleen Abrams, Miami Shores, FL; Mr. D. Lindsay Pettus, Lancaster, SC; Dr. Asa C. Sims, Jr., New Orleans, LA; Dr. Edgar Wayburn, San Francisco, CA; Hon. Gordon Allott, Englewood, CO; Mr. Charles Cushman, Sonoma, CA; Mr. Fred E. Hummel, Sacramento, CA; Mr. Raymond J. Nesbit, Sacramento, CA; and Mr. Alan J. Underberg, Rochester, NY.

On October 3 and 4 the Advisory Board will tour sites within Mesa Verde National Park. On October 5 and 6, the Advisory Board will meet in general business sessions starting at 9:00 AM at the Far View Lodge, Mesa Verde National Park, to consider administrative matters pertaining to the Board; receive and discuss several task force and committee reports; consider and make recommendations on proposed national historic landmark designations; and review and discuss policy and management issues affecting the National Park System.

The meeting will be open to the public. Space and facilities to accommodate member of the public at the business sessions are limited and persons will be accommodated on a first-come-first-served basis. Any members of the public may file with the Advisory Board a written statement concerning matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements may contact Shirley Luikens, Advisory Boards and Commissions, National Park Service, Washington, D.C. 20240 (202-343-2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 341b, Interior Building, 18th and C Sts. NW., Washington, D.C.

Jean C. Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 82-25150 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 3, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243.

Written comments should be submitted by September 29, 1982.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Pulaski County

Little Rock, *LaFayette Hotel,* 525 S. Louisiana St.

GEORGIA

Appling County

Baxley, *Deen, C.W., House,* 413 N. Main St.

Coweta County

Newnan, *Cole Town,* Roughly bounded by Washington, Thompson, and Davis Sts., and Hooligan Alley

DeKalb County

Atlanta vicinity, *Cameron Court,* E of Atlanta at Braircliff Rd.

Effingham County

Guyton, *Guyton Historic District,* Bounded by city limits on the E, S, and W, and Alexander Ave. on the N

Emanuel County

Canoochee vicinity, *Davis, Josiah, House,* S of Canoochee on GA 192

Fulton County

Atlanta, *Farlinger,* 343 Peachtree St., NE

Hall County

Gainesville, *Candler Street School,* Candler St.

Lamar County

Barnesville, *U.S. Post Office,* Forsyth and College Dr.

Lincoln County

Lincolnton, *Lamar-Blanchard House,* N. Washington and Ward Sts.

Muscogee County

Columbus, *Hofflin & Greentree Building,* 1128–1130 Broadway

Polk County

Cedartown, *U.S. Post Office,* 145 West Ave.

Rabun County

Dillard vicinity, *Hambidge Center Historic District,* W of Dillard on Betty's Creek Rd.

INDIANA

Wabash County

North Manchester, *North Manchester Covered Bridge,* S. Mill St. at Eel River

IOWA

Allamakee County

Lansing, *Kerndt & Brothers Office Block, 4th & Main Sts.*

Floyd County

Marble Rock, *Marble Rock Bank,* 313 Bradford St.

Howard County

Cresco, *South Ward School,* 500 S. Elm St.

Jackson County

Sabula, *Wood, Jeremiah, House,* 802 River St.

Johnson County

Iowa City, *Jackson-Swisher House and Carriage House,* 120 E. Fairchild St.

Linn County

Cedar Rapids, *Cedar Rapids Post Office and Public Building,* 305 2nd Ave., SE

Marshall County

Haverhill, *Edel, Matthew, Blacksmith Shop and House,* 1st St. and 3rd Ave.

Scott County

Davenport, *Middleton, Dr. George McLelland, House and Garage,* 1221 Scott St.

LOUISIANA

Caldwell County

Columbia vicinity, *Synope Plantation House,* N of Columbia off US 165

Terrebonne County

Schriever, *St. George Plantation House,* LA 24

MASSACHUSETTS

Berkshire County

Adams, *Phillips Woolen Mill,* 71 Grove St.
Adams, *Renfrew Mill #2,* 217 Columbia St.
Lenox, *Church on the Hill,* Main St.
Lenox, *Lenox Academy,* 75 Main St.
New Marlborough, *New Marlborough Village,* MA 57, New Marlborough, Monterey and Southfield Rds.
Pittsfield, *Wollison-Shipton Building,* 142–156 North St.

Bristol County

New Bedford, *Dawson Building,* 1851 Purchase St.

Essex County

North Andover, *Machine Shop Village,* Roughly bounded by Main, Pleasant, Clarendon, Water, 2nd Sts., and B & M Railroad
Rockport, *Sewall-Scripture House,* 40 King St.

Hampshire County

Belchertown, *Walker-Collis House,* 1 Stadler St.

Middlesex County

Hudson, *Mossman, Col. Adelbert, House,* 76 Park St.

MISSISSIPPI

Wilkinson County

Woodville, *Woodville Historic District,* Roughly bounded by Prentiss, 2nd, College, Siglo, and Water Sts.

MISSOURI

St. Louis (Independent City), *Aubert Place (Fountain Park),* Fountain Ave. between Walton Ave. and Kings Highway

NEVADA

Clark County

Overton vicinity, *Pueblo Grande de Nevada,* SE of Overton

NEW YORK

Albany County

Albany, *Mansion Historic District,* Roughly bounded by Park Ave., Pearl, Eagle, and Hamilton Sts.

Bronx County

New York, *Riverdale Presbyterian Church Complex,* 4761–4765 Henry Hudson Parkway
New York, *St. James' Episcopal Church and Parish House,* 2500 Jerome Ave.

New York County

New York, *Buildings on East 67th Street,* 149–151, 153–155, 157–159, 163 E. 67th St.
New York, *Houses at 326, 328 and 330 East 18th Street,* 326–330 E. 18th St.

OHIO

Ashtabula County

Jefferson, *Lake Shore & Michigan Southern Railroad Station,* 147 E. Jefferson St.

Athens County

Athens, *Athens Downtown Historic District,* N. Court St. between Carpenter and Union Sts. and Congress and College Sts.

Clinton County

Wilmington, *Wilmington Commercial Historic District,* Roughly bounded by Columbus, Walnut, Sugartree, and Mulberry Sts.

Cuyahoga County

Cleveland, *Cleveland Warehouse District,* Roughly bounded by Front and Superior Aves., Railroad, Summit, 3rd, and 10th Sts.

Delaware County

Westerville vicinity, *Sharp, Stephen, House,* N of Westerville on Africa Rd.

Gallia County

Ewington, *Ewington Academy,* Ewington Rd.

Lorain County

Rochester vicinity, *Bradford, Henry, Farm,* N of Rochester on OH 511

Modina County

Medina, *Blake, H. G., House,* 314 E. Washington St.

Van Wert County

Van Wert, *Van Wert Bandstand,* Van Wert County Fairgrounds, OH 127

TENNESSEE

Marion County

South Pittsburg, *Hardy, Richard, Memorial School,* 1620 Hamilton Ave.

VERMONT

Celedonia County

Harwick, *Downtown Hardwick Village Historic District,* Main, Church, Maple, and Mill Sts.

WISCONSIN

Dane County

Stoughton, *Stoughton Universalist Church*, 324 S. Page St

[FR Doc. 82-25153 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Oil Shale Environmental Advisory Panel; Meeting

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting of the Oil Shale Environmental Advisory Panel.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel (Panel) will be held on September 28 and 29, 1982, at the Vernal Elk's Lodge, 35 North 300 West, Vernal, Utah. The meeting will begin at 9:00 a.m. on Tuesday, September 28; be recessed for a field trip to the Utah lease tracts; and reconvene on Wednesday, September 29, at 8:30 a.m. and conclude at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Eleanor David, Office of the Oil Shale Advisory Panel, Department of the Interior, Room 1010, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. 303-234-3275.

SUPPLEMENTARY INFORMATION: The Panel was established to assist the Department of the Interior in the performance of functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The Panel will review the status of the Rio Blanco Oil Shale Project (Tract C-a), progress of the Cathedral Bluffs Shale Oil Company (Tract C-b), both in Colorado, and a revision of the White River Detailed Development Plan, including modifications to the mining plan for tracts U-a and U-b in Utah. The Panel will hear reports by Department of the Interior representatives and a briefing by Geokinetics, Inc., on their *in situ* oil shale project. Within the given time constraints, the Panel will consider any other pertinent items which come before it.

The meeting will be open to the public. It is expected that space will permit at least 75 persons to attend the meeting in addition to the Panel members. Interested persons may make brief presentations to the Panel or submit written statements. Requests for time on the agenda or for further information concerning the meeting should be made to the Panel Chairman, Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 1010, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Minutes of the meeting will be available for public inspection at the Panel Office 30 days after the meeting.

DATE: The meeting will be held September 28-29, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 8, 1982.

[FR Doc. 82-25134 Filed 9-13-82; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an appliction must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any application upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresovled fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each application (unless the application involves impediments) upon compliance with certain requriements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 8, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-14917, filed July 26, 1982, amended. J. ROBERT FORD (Ford) (P.O. Box 727, 510 Riverside Drive, Ironton, OH 45638)—Continance-In-Control—F & B TRANSPORT, INC. (50 West Broad Street, Suite 1815, Columbus, OH 43215). Representative: Philip B. Cochran, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Ford seeks authority to continue in control of F&B upon institution by F&B of operations as a common carrier. Ford controls Ford Brothers, Inc., a common carrier operating under MC-112595 and subs thereunder. F&B is a newly formed corporation seeking to

operate under the authority in MC-112595 (Sub 99).

MC-F-14922, filed August 3, 1982. DOUBLE "S" TRUCKING, INC. (Double "S") (731 Livestock Exchange Building, Omaha, NE 68107)—Purchase (Portion)—ECKLEY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representatives: A. J. Swonson, P.O. Box 1103, Sioux Falls, SD 57101 and James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Double "S" seeks authority to purchase a portion of the interstate operating rights of Eckley. Denny L. Schueman, the sole stockholder of Double "S", seeks authority to acquire control of said rights through the transaction. Double "S" is purchasing that portion of the interstate operating rights contained in Certificate No. MC-5227 (Sub-No. 89)X authorizing the transportation of construction materials between points in OR and WA and points in Tehoma, Shasta, Lake, Tassen, Siskiyou, Plumas, Sonoma, Humbolt, Sutter, Yuba, San Joaquin, and Sacramento Counties, CA, on the one hand, and, on the other, points in WY, CO, NE, KS, and those in that part of IA on and south of U.S. Highway 30 and on and west of U.S. Highway 169. Double "S" holds authority pursuant to Certificates issued in MC-146055 and sub-number thereunder.

Note.—An application for temporary authority has been filed.

MC 14924, filed August 3, 1982. John J. Dooley, 8505 West Warren Rd., Dearborn, MI 48126. Representative: A. David Millner, 7 Becker Farm Road, Roseland, NJ, 17068. Applicant seeks authority to continue in control of SMF, Inc., a recently authorized common carrier in No. MC-160899. Applicant is not a carrier, but controls United Trucking Service, Inc., at No. MC-70151 and sub numbers thereunder, McDuffee Motor Freight, Inc. at No. MC-28961 and sub numbers thereunder, and also controls SMF, Inc., all by reason of stock ownership. Common control of United Trucking Service, Inc., McDuffee Motor Freight, Inc., and United Trucking Service of Kentucky, Inc. was approved in Docket No. MC-F-10858

MC-F-14926F, filed August 6, 1982. W.C. CARRIERS, INC. (Carriers) (52229 N.W. 5th Street, P.O. Box 519, Bethany, OK 73008)—Purchase (Portion)—ECKELY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representatives Kenneth L. Peacher, 3925 N. Ann Arbor, Oklahoma City, OK 73122 and A.J. SWANSON, P.O. Box 1103, Sioux Falls, SD 57101-1103. Carriers seek authority to purchase a portion of the operating rights of Eckley. Carol Bird and Wayne Bird, equal stockholders of Carriers, and Robert Bird, Vice-President of Carriers, seek authority to acquire control said rights through the transaction. The operating rights to be purchased are contained in part (2) of Eckley certificate No. MC-5527 (Sub-No. 89X), which authorizes the transportation of *construction materials*, between Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI). Carriers is a motor common and contract carrier pursuant to certificates and permits isued in MC-148987 and sub-numbers thereunder.

Note.—An application for temporary authority has been filed.

MC-F-14927, filed August 6, 1982. GEORGE C. CAVES d.b.a. CAVES TRUCKING (Caves) (P.O. Box 29357, Lincoln, NE 68529)—Purchase (Portion)—ECKLEY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Caves is a common carrier operating pursuant to Certificate No. MC-146817 and subnumbers thereunder. It seeks to purchase a portion of Eckely's authority in Certificate No. MC-5227 (A) Sub-No. 17, authorizing transportation of *solar heating and cooling systems and related parts and accessories, roofing tile, and insulation, (except in bulk, in tank vehicles)*, from the facilities of Mid-American Industries, Inc., at Mead, NE, to points in ND, SK, WY, MT, CO, NM, TX, OK, KS, MO, AR, IL, IN, IA, WI and MN; and *equipment, materials and supplies* used in the manufacture of the commodities named above (except in bulk, in tank vehicles) from points in ND, SD, WY, MT, CO, NM, TX, OK, KS, MO, AR, IL, IN, IA, WI, and MN to the facilities of Mid-America Industries, Inc., located at Mead, NE, with no transportation for compensation on return except as otherwise authorized: (B) Sub-No. 26, authorizing transportation of (1) *grain handling equipment and parts and accessories related thereto*, and (2) *equipment, materials and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Sweet Manufacturing Company, at or near West Point, NE, on the one hand, and, on the other, points in WI, MN, IA, MO, AR, TX, OK, KS, ND, SD, MT, WY, CO, NM, AZ, UT, ID, WA, OR, CA, NV, IL, OH, MI, and IN; and (C) Sub-No. 72F, authorizing transportation of *beverages*, and *such commodities* as are used in the manufacture and distributing of beverages, between points in Rock County, WI, on the one hand, and, on the other, points in MN, ND, and SD.

Note.—Caves has filed an application for temporary lease of the authority sought for purchase.

MC-F-14940, filed August 23, 1982. OAK HARBOR FREIGHT LINES, INC. (Oak Harbor) (6350 So. 143rd Street, Seattle, WA 98158)—Control—L. L. BUCHANAN CO., INC. d.b.a. BUCHANAN AUTO FREIGHT (Buchanan) (115 West D Street, Yakima, WA 68902). Representative: Carl A. Jonson, 300 Central Building, Seattle, WA 99104. Oak Harbor seeks authority for acquisition of control of the operating rights and property of Buchanan. Henry Vander Pol, President and majority stockholder of Oak Harbor also seeks to control said operating rights and property through this transaction. The operating rights to be controlled are contained in Buchanan's certificate No. MC-4088 (Sub-No. 4)X which authorizes the transportation of (1) *general commodities* (except classes A and B explosives), between Yakima, WA and Seattle, WA over designated routes to route serving all intermediate points; (2) *Farm products* between Yakima, WA and Tacoma, WA over described routes to all intermediate points and off-route points in Yakima County, WA; and over irregular routes transporting *general commodities* (except classes A and B explosives), between points in Yakima County, WA, on the one hand, and, on the other, points in Yakima, Kittitas, Benton and Franklin Counties, WA. Oak Harbor is a motor common carrier pursuant to certificates issued in MC-139763 and sub-numbers thereunder.

Note.—An application for temporary authority has been filed.

[FR Doc. 82-25140 Filed 9-13-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for

filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79900. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer to rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer BRADFORD F. MCKERNAN, DARRYLL M. JENKINS, AND ROBERT J. BROWN, A PARTNERSHIP, d.b.a. SPA TRANSPORT of Certificate No. MC-145916 (Sub-No. 2F) issued to ZELL G. HENDERSON d.b.a. THE SPA HAULER, authorizing the transportation of *spa and hot tubs, and materials and supplies* used in the manufacture and distribution of spas and hot tubs, between points in the United States (except AK and HI). Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108.

Note.—(1) Transferee is a non-carrier. (2) Transferor has requested cancellation of its Certificate No. MC-145916 (Sub-No. 1) to avoid the retention of duplicating authority.

MC-FC-79980. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151.2 Review Board Number 3 approved the transfer to EMERALD CITY INTERNATIONAL CORPORATION of Edmonds, WA of Permit No. FF-574, issued April 21, 1982 to EMERALD CITY INTERNATIONAL of Edmonds, WA, authorizing the transportation as a freight forwarder, of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S., including AK and HI, restricted to traffic having a prior or subsequent movement by air or water. Representative: Verna Joyce Effenberger, 23028 100th Avenue, W. Edmonds, WA 98020.

MC-FC-79988. By decision of August 27, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to CARROLL'S TRANSFER, INC., of Dublin, NC of Certificate No. MC-105142 (Sub-Nos. 1, 3, and 5) issued to PAIT TRANSFER, INC., of Bladenboro, NC authorizing the transportation of fertilizer, fertilizer materials, and dry fertilizer in containers and bags between various named points in NC, SC, and Chesapeake, VA. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. TA lease is not sought. Transferee is a carrier.

MC-FC-79989. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to AUDUBON TRAILS COACH LINE, INC., of Evansville, IN, a non-carrier, or Certificate No. MC-88293 (Sub-No. 5) issued August 5, 1959, FUQUA BUS LINES, INC., of Owensboro, KY, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers between Indianapolis, IN, and Owensboro, KY, serving all intermediate points: over various described routes. Representative: Norman R. Garvin, Esq., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204-3491 (317) 638-1301.

MC-FC-79992. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to LIBERTY LINES TRANSIT, INC. d.b.a. LIBERTY LINES of Certificate No. MC-116921 Subs 4, and 7 issued to WEST FORDHAM TRANSPORTATION CORP., of Yonkers, NY, authorizing passengers and their baggage, in regular route, charter, and special operations service, between named points in NY and CT. Representative: Vincent P. Nesci, P.O. Box 624, Main Station, Yonkers, NY 10702.

MC-FC-79993. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to ALLSTATE VAN & STORAGE CORP. of Certificate No. MC-107300 issued December 2, 1964 to AMERICAN VAN & STORAGE CORP. authorizing the transportation of household goods as defined by the Commission between points in New Castle County, DE, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, PA, DE, MD, VA and DC. Representative: Thomas Bennett, Jr., President, Allstate Van & Storage Corp., 453 Pulaski Highway, New Castle, DE 19720.

MC-FC-79994. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1132, Review Board Number 3 approved the transfer to NATIONAL EXPRESS, INC., of Houston, TX, of Certificate No. MC-154626, issued to AMERICAN CARGO EXPRESS, LTD., of Denver, CO, authorizing the transportation of general commodities (except Classes A and B explosives) between Boulder, CO, and Galveston, TX, over specified routes, serving points in Harris, Galveston, Brayoria and Ft. Bend Counties, TX, and Denver, Adams, Arapahoe, Jefferson, and Boulder Counties, CO, as intermediate and off-route points. Transferee holds no authority from this Commission. TA has beenm sought. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203.

MC-FC-79999. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SOUTH TRANSPORT, INC., of Montgomery, AL, of Certificate No. MC-145506 (Subs 4, 5, and 6) issued to ODON TRUCKING CO., INC., of Eufaula, AL, authorizing meats and related commodities, from the facilities of John Morrell & Co., at or near Montgomery, AL, to points in the U.S. in and east of TX, OK, KS, NE, SD, and ND, bananas from the facilities of The Best Bananas Co., Inc., at or near Norfolk, VA, to points in AL, AR, CT, DE, GA, IL, IN, IA, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC, meats and related commodities, from the facilities of John Morrell & Co., at or near Arkansas City, KS, East St. Louis, IL, Memphis, TN, and Shreveport, LA, to points in AL, FL, GA, MS, NC, SC, and TN. Representative: Timothy C. Miller, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101.

MC-FC-80000. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132,

Review Board Number 3 approved the transfer to FREIGHTMASTERS, INC., of Minneapolis, MN, of Certificate No. MC-158137 issued May 17, 1982, to ROSEWOOD CORPORATION, STORAGE SPECIALITIES DIVISION of St. Paul, MN, authorizing general commodities (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in MN, ND, SD, and WI. Representative: Samuel Rubenstein, 6960 Madison Avenue, W. Golden Valley, MN 55427, (612) 542-1121. TA lease is not sought. Transferee is a carrier.

MC-FC-80003. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 3 approved the transfer to DOVER EQUIPMENT & MACHINE COMPANY of Permit No. MC-147578 issued to G & L TRUCKING, INC., on January 6, 1981, authorizing the transportation of crushed stone, sand, gravel, and hot paving mix, in bulk, between points in Delaware, those in Harford, Cecil, Kent, Queen Annes, Talbot, Carolina, Dorchester, Wicomico, Somerset, and Worcester Counties, MD, Accomack County, VA, and Lancaster, Delaware, Chester, Philadelphia, Montgomery, and York Counties, PA, under continuing contract(s) with George & Lynch, Inc., of New Castle, DE. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., N.W., Washington, DC, (202) 296-3555. TA lease is not sought. Transferee is a carrier.

MC-FC-80008. By decision of August 26, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to WHEELING-BARNESVILLE-WOODSFIELD EXPRESS, INC. of Benwood, WV, of Certificate No. MC-30288 issued to R. E. MOWDER, WILLIAM M. BRYAN and EDWIN W. NORRIS, d.b.a. WHEELING-BARNESVILLE-WOODSFIELD EXPRESS authorizing general commodities (with exceptions), over described regular routes, serving named intermediate and off-route points between named points in WV and OH; and certain specified commodities over irregular routes between certain points in OH, on the one hand, and, on the other, points in IL, IN, MD, MI, PA, NY, and WV. Applicant's representative: E. H. Deusen, P.O. Box 97, Dubin, OH 43017. TA lease is not sought. Transferee is not a carrier.

MC-FC-80009. By decision of August 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151, Review Board Number 3 approved the transfer to Decagon Company Limited of Seattle, WA; Ford Pak, Inc., of El Paso, TX of Amended Permit No. FF-365 (Sub-No. 2) issued to authorizing (a) used household goods and unaccompanied baggage and (b) automobiles between points in the United States; authority in (b) above is restricted to the transportation of export-import traffic. Applicant's representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. TA lease is not sought. Transferee is not a carrier.

MC-FC-80011. By decision of August 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Seaboard Express, Inc. of Certificate No. MC-152225 (Sub-No. 1) issued to Rick Perrone Transportation, Inc. authorizing the transportation of *electronic cable, plastic pellets,* and *materials, equipment and supplies* used in the manufacture and installation of electronic cable and wire plastic insulation, from South Hadley, MA, to Nogales, AZ, and from Nogales, AZ to points in the United States (except AK and HI).

Note.—Transferee is a motor carrier pursuant to certificates and permits issued in MC-156800 and sub-numbers thereunder. Applicants representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517.

MC-FC-80012. By decision of August 27, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Silva and Silva Trucking, Inc., of 2003 E. Viola, Yakima, WA 98901 of Certificate No. MC-149241 Sub 2 issued to R&T Trucking, Inc., of (same address) authorizing meats and related commodities, from points in WA to Bend, Eugene, Subliwitz, and Portland, OR and points in CA. TA lease is not sought. Transferee is not a carrier.

MC-FC-80013. By decision of August 26, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to R & J Cartage, Inc., of Chesterton, IN, of Permit No. MC-119591, issued to R. L. Ramsey, Inc., of Hobart, IN, authorizing the transportation of gasoline, kerosene, and Nos. 1 and 2 fuel oils, in bulk, in tank vehicles, from Griffith, IN, to the bulk, plant sites of the Lansing Oil Company, Lansing, IL, under a continuing contract or contracts with Lansing Oil Company.

Notes.—Transferee holds no authority from this Commission. TA has not been sought. Applicants' representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25141 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated

operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed application involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-213

Decided: September 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating).

MC 163612, filed August 30, 1982. Applicant: FALCON TRANSPORT, INC., d.b.a. FALCON BROKERAGE, 6085 La Grange Blvd., SW., Atlanta, GA 30336. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, 213-483-4700. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-216

Decided: September 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 163582 filed August 26, 1982. Applicant: PAUL FELZKE, d.b.a. FELZKE FARMS, 5501 West Herbison, Dewitt, MI 48820. Representative: Paul Felzke (same address as applicant), (517) 669-9459. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163593, filed August 27, 1982. Applicant: ROBERT W. ERVIN AND EARLENE ERVIN, d.b.a. R. W. ERVIN TRUCKING, Route 2, Box 594, Prineville, OR 97754. Representative: Robert W. Ervin (same address as applicant), (503) 447-5451. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 4 at (202) 275-7669.

Volume No. OP4-329

Decided: September 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Ewing, and Williams.

MC 163547, filed August 25, 1982. Applicant: THE JODAN GROUP ENTERPRISES CORPORATION, 303 Ponce DeLeon Blvd., P.O. Box 893, DeLeon Springs, FL 32028. Representative: Daniel L. Glenn (same address as applicant), (904) 985-5541. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone fertilizers and other soil conditioners,* by the owner of the motor vehicle in such vehicle; for the account of the United States Government, *general commodities* (except hazardous or secret materials, sensitive weapons and munitions); and *used household goods* for the account of the United States Government, incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25139 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-214

Decided: September 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 682 (Sub-37), filed August 30, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036-5391, 202-887-5868. Transportating *household goods*, between points in the U.S., under continuing contract(s) with General Dynamics Corporation, of St. Louis, MO, and its following subsidiaries and divisions: (a) American Telecommunications Corporation, of El Monte, CA, (b) Convair Division, of San Diego, CA, (c) Data Systems Division, of St. Louis, MO, (d) Datagraphix, Inc., of San Diego, CA, (e) Electric Boat Division, of Groton, CT, (f) Electronics Division, of San Diego, CA, (g) Fort Worth Division, of Fort Worth, TX, (h) General Dynamics Services Company, of San Diego, CA, (i) Land Systems Division, of Sterling Heights, MI, (j) Material Service Corporation, of Chicago, IL, and (k) Stromberg-Carlson Corporation, of Charlottesville, VA.

MC 16513 (Sub-42), filed September 1, 1982. Applicant: REISCH TRUCKING AND TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, 703-750-1112. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company, of Philadelphia, PA.

MC 111432 (Sub-27), filed September 1, 1982. Applicant: FRANK J. SIBR & SONS, INC., 2122 York Rd., Suite 100, Oak Brook, IL 60521. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, 217-753-3925. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Gill & Duffus Chemicals, Inc., of Princeton, NJ.

MC 112713 (Sub-331), filed August 30, 1982. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr. (same address as applicant), 913-383-3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Port of Seattle, of Seattle, WA.

MC 116132 (Sub-11), filed September 1, 1982. Applicant: NATIONAL TANK TRUCK DELIVERY, INC., 85 East Gay St., Columbus, OH 43215. Representative: Earl N. Merwin (same address as applicant), 614-224-3161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Colgate-Palmolive Company, Inc., of New York, NY.

MC 143503 (Sub-36), filed August 23, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102, 405-232-9990. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) Levitz Furniture Company, of the Eastern Region, Inc., (b) Levitz Furniture Company of the Midwest, Inc., (c) Levitz Furniture Company of Texas, Inc., (d) Levitz Furniture Company of the Pacific, Inc., and (e) Levitz Furniture Company of Washington, Inc., all of Miami, FL.

MC 150432 (Sub-16), filed August 23, 1982. Applicant: H & M TRANSPORTATION, INC.; U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L St. NW., Suite 1111, Washington, DC 20036, 202-822-8200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—The purpose of this application is to convert applicant's contract carrier authority to common carrier authority.

MC 162652, filed August 30, 1982. Applicant: CHRIS HANSON and EVAN HANSON, d.b.a. HANSON PROPERTIES, County Hwy. T, P.O. Box 167, Hammond, WI 54015. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414-722-2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Douglas-Hanson Co., Inc., of Hammond, WI, and (2) Roberts Foods, Inc., of Rochester, MN.

MC 163383, filed August 12, 1982. Applicant: WILLETT TRANSPORTS, INC., 3901 S. Ashland Ave., Chicago, IL 60609. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Stauffer Chemical Co., of Westport, CT.

Volume No. OP2-217

Decided: September 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 113983 (Sub-8), filed August 31, 1982. Applicant: CLEVELAND'S TRUCK LINES, INC., R.D. 2, Hornell, NY 14843. Representative: Clover M. Drinkwater, One West Church St., Elmira, NY 14901, (607) 734-2271. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Allegany, Broome, Cattaraugus, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Schuyler, Steuben, Tioga, Wyoming, and Yates Counties, NY, and points in PA and NY, points in Mahoning County, OH, and points in Hancock County, WV.

MC 140922 (Sub-1), filed August 30, 1982. Applicant: NORTHWEST DAIRY FORWARDING CO., 1901 Oakcrest Ave., Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *oil kernels, nuts and seeds, food and related products*, and *such commodities* as are handled by bakeries, (1) between Minneapolis, MN, Seattle, WA, points in NY and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between Chicago, IL, on the one hand, and, on the other, points in IA, MN, SD and WI.

MC 140942 (Sub-5), filed August 30, 1982. Applicant: CLOVERDALE TRANSPORTATION COMPANY, Box 578, Mandan, ND 58554. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502-2056, (701) 223-5300. Transporting (1) *lumber, lumber products, lumber mill products, building materials, steel buildings*, and (2) *parts and accessories* for the commodities in (1) above, between those points in the U.S. in and west of MI, WI, IL, MO, AR, and LA (except AK and HI). Condition: Applicant's permit under MC 140942 Sub 4X, issued November 24, 1981, is revoked. The purpose of this application is to convert contract carrier authority to common carrier authority.

MC 142672 (Sub-192), filed August 30, 1982. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same address as applicant), (501) 997-1683. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 148903 (Sub-12), filed August 30, 1982. Applicant: J & M TANK LINES, INC., P.O. Box 544, Americus, GA 31709. Representative: Mark S. Gray, 1200 Gaslight Tower, 235 Peachtree St., N.E., Atlanta, GA 30303, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with (a) The Pennwalt Corporation, of Philadelphia, PA; and (b) New Mayo Products d.b.a. Mayo Products Co., of Mableton, GA.

MC 150592 (Sub-10), filed August 31, 1982. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501, (402) 475-4414. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 153962 (Sub-5), filed August 30, 1982. Applicant: NEBRASKALAND CONTRACT CARRIERS, INC., P.O. Box 1190, Kearney, NE 68847. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Moose Creek, of Spokane, WA.

MC 160223, filed August 30, 1982. Applicant: IVAN SLEIGHT, d.b.a. MAVERICK DISTRIBUTORS, P.O. Box 692, Hayden Lake, ID 83835. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *petroleum, petroleum products and such commodities dealt in by automotive service stations,* between points in ID, MT and WA.

MC 161833 (Sub-1), filed August 27, 1982. Applicant: MARSON TRUCKING CO., 317 A Leroy Ave., Molalla, OR 97038. Representative: Frank J. Marson, Jr. (same address as applicant), (503) 829-2700. Transporting *lumber, wood products, pulp, paper, and related products, ores, minerals,* between points in OR, WA, CA and NV.

MC 163443, filed August 26, 1982. Applicant: G. L. TRUCKING, a division of G. L. RENTAL & ENGINEERING, INC., Rural Route 1, Box 97H, Williston, ND 58801. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502-2056, (701) 774-3824. Transporting *Mercer commodities,* between points in ND, SD, MT, WY and CO.

MC 163462, filed August 30, 1982. Applicant: KWIKOOL ICE & COLD STORAGE, INC., 955 No. Columbia Blvd, Bldg. C, Portland, OR 97217. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204, (503) 228-5275. Transporting *food and related products* between points in OR, on the one hand, and, on the other, points in WA, under continuing contract(s) with (1) Armour Food Company, of Portland, OR, (2) Western Meat Traders, Inc., of Sublimity, OR, (3) Swift & Company, of Chicago, IL, (4) The Rath Packing Company, Waterloo, IA, (5) Western Excel Distributors, Inc., of Portland, OR.

MC 163572, filed August 26, 1982. Applicant: W. M. JONES, INC., P.O. Box 794, Cumby, TX 75433. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104, (817) 332-4415. Transporting *metal products,* between points in CO, KS, OK, LA, NE, NM and TX.

Please direct status inquiries to Team 4 at (202) 275-7669.

Volume No. OP4-321

Decided: September 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 110567 (Sub-32), filed August 18, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245-2725. Transporting *such commodities* as are dealt in, used by, or distributed by retail grocery stores, between points in IA and IL.

MC 125777 (Sub-308), filed August 20, 1982. Applicant: JACK GRAY TRANSPORT, INC., 4600 E 15th Ave., Gary, IN 46403. Representative: Joel H. Steiner, 29 S LaSalle, Suite 905, Chicago, IL 60603, (312) 263-9375. Transporting *metal products* and waste or scrap material between points in the U.S. (except AK and HI), under continuing contract(s) with The David J. Joseph Company of Cincinnati, OH.

MC 124987 (Sub-29), filed August 20, 1982. Applicant: EARL L. BONSACK AND ELAINE M. BONSACK, d.b.a. EARL L. BONSACK, 512 Plainview Rd., LaCrosse, WI 54061. Representative: Edward H. Instenes, 128½ Plaza East, Winona, MN 55987, (507) 454-3914. Transporting *such commodities* as are dealt in by grocery stores, between points in IL, IN, IA, MN, MO, WI, and the Lower Penisula of MI.

MC 129987 (Sub-4), filed August 20, 1982. Applicant: TERRA COTTA TRUCK SERVICE, INC., P.O. Box 424, Crystal Lake, IL 60014. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contracts with Northwestern Salt Co., Inc. of Chicago, IL.

MC 150497 (Sub-4), filed August 9, 1982. Applicant: D & R TRUCKING CO., P.O. Box 38, Hoople, ND 58243. Representative: Richard P. Anderson, 2525 S. University Drive, P.O. Box 2581, Fargo, ND 58108, (701) 235-3300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ed. Phillips & Sons Company of North Dakota, of Fargo, ND.

MC 154337 (Sub-1), filed August 19, 1982. Applicant: LAUREL TRUCKING CO., INC., P.O. Box 100, E Bernstadt, KY 40729. Representative: Rudy Yessin, 113 W Main St., Frankfort, KY 40602, (502) 227-7326. Transporting *food and related products,* between points in OH, IN, IL, KY and TN.

MC 157397 (Sub-2), filed August 19, 1982. Applicant: CTS TRUCKING INC., d.b.a. CHADWICK TRANSPORTATION SERVICE, P.O. Box 12109, Norfolk, VA 23502. Representative: M. L. Chadwick (same address as applicant), (804) 464-9554. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Crowley Maritime Salvage, Inc. of Williamsburg, VA, Leibherr America, Inc. of Newport News, VA, Volvo of America Corporation of Chesapeake, VA, Morrow Crane Co. of Manassas, VA and Hampton Roads Terminals, Inc. of Portsmouth, VA.

MC 162317, filed August 18, 1982. Applicant: PACKARD TRUCK LINES, INC., P.O. Box 1536, Harvey, LA 70059. Representative: Clairborne Perrilliant (same address as applicant), (504) 367-1435. Transporting *Mercer commodities,* between points in LA, on the one hand, and, on the other, points in MS, OK, TX and AL.

MC 163477, filed August 20, 1982. Applicant: MARTIN'S TRANSPORTATION SERVICE, INC., 8410 Gibbs Place, Philadelphia, PA 19153. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564-3880. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special or charter operations, limited to the transportation of not more than 15 passengers in any one vehicle, between points in DE, MD, NJ, NY, PA and DC.

Volume No. OP4-322

Decided: September 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF-267 (Sub-2), filed August 25, 1982. Applicant: HONOLULU FREIGHT SERVICE, P.O. Box 21156, Market Station, Los Angeles, CA 90021. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483-4700. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), on the one hand, and, on the other, points in HI.

W-1356, filed August 24, 1982. Applicant: CONSOLIDATED GRAIN AND BARGE COMPANY, 101 Merchants Exchange Bldg., 5100 Oakland Ave., St. Louis, MO 63110. Representative: Peter A. Greene, 1920 N St., N.W., Suite 700, Washington, DC 10026, (202) 331-8800. Transporting, by water, *general commodities*, between ports and points on the Cumberland, Tennessee, Ohio, Missouri, Mississippi, Arkansas, Mobile, Alabama, Tombigbee, Black Warrior, and Illinois Rivers; the Illinois Waterway; Lake Michigan between Chicago, IL and Burns Harbor, IN; the Gulf of Mexico and the Gulf Intracoastal Waterway between Brownsville, TX and Apalachicola, FL, and tributary and connecting waterways and channels.

MC 70557 (Sub-59), filed August 25, 1982. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 99567 (Sub-10), filed August 25, 1982. Applicant: KANE FREIGHT LINES, INC., P.O. Box 931, Scranton, PA 18501. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750-1112. Transporting *parts and components* used in the manufacture and distribution of data processing equipment, between points in Lackawanna County, PA, on the one hand, and, on the other, points in Palm Beach County, FL.

Volume No. OP4-328.

Decided: September 7, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 121637 (Sub-4), filed August 26, 1982. Applicant: C AND P TRANSPORTATION, INC., 539 S. Trenton, P.O. Box 50460, Tulsa, OK 74120. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Tulsa and Claremore, OK, over U.S. Hwy 66; (2) between Tulsa and Pawhuska, OK, over OK Hwy 11; (3) between Tulsa and Skiatook, OK: from Tulsa over U.S. Hwy 75 to junction OK Hwy 20, then over OK Hwy 20 to Collinsville, then return over OK Hwy 20 to Skiatook; (4) between Tulsa, OK and the OK-KS State Line: from Tulsa over U.S. Hwy 64 to junction Cimarron Turnpike, then over Cimarron Turnpike, to junction over U.S. Hwy 177, then over U.S. Hwy 177 to junction U.S. Hwy 77, then over U.S. Hwy 77 to the OK-KS State Line, serving the off-route points of Red Rock, Red Rock Power Station, Kildare, and Chilocco, OK; (5) between Tulsa, OK and the OK-KS State Line: from Tulsa over U.S. Hwy 75, to junction OK Hwy 20, then over OK Hwy 20 to junction OK Hwy 11, then over OK Hwy 11 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 35, then over Interstate Hwy 35 to the OK-KS State Line, serving the off-route points of Tonkawa, Blackwell and Braman, OK; (6) between Ponca City, OK and the OK-KS State Line: from Ponca City over U.S. Hwy 60 to junction OK Hwy 18, then over OK Hwy 18 to the OK-KS State Line, serving the off-route points of Apperson, Webb City, Lyman and Foraker, OK; and (7) between Tonkawa and Shidler, OK: from Tonkawa over U.S. Hwy 77 to junction OK Hwy 11, then over OK Hwy 11 to Shidler, serving the off-route points of Autwine, Marland, Kaw City, Apperson, and Webb City, OK; serving all intermediate points in connection with routes (1) through (7) above. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its Certificates of Registration issued in Docket No. MC-121637 and subs thereto.

Note.—The purpose of this application is to convert applicant's Certificates of Registration into a Certificate of Public Convenience and Necessity.

MC 144207 (Sub-2), filed August 11, 1982. Applicant: SOUTHWEST TRANSPORT, INC., P.O. Box 190, Mena, AR 71953. Representative: Orvin Foster, P.O. Box 27, 504 Church St., Mena, AR 71953, (501) 394-1061. Transporting *lumber, wood products*, and *building materials*, between points in the U.S. (except AK and HI).

MC 157957 (Sub-1), filed August 26, 1982. Applicant: LORAS KALB, 904 Monticello Dr., Dubuque, IA 52001. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001, (319) 557-1320. Transporting *coal and coal products*, between points in Dubuque County, IA, on the one hand, and, on the other, points in WI.

MC 160767 (Sub-4), filed August 26, 1982. Applicant: LADD TRANSPORTATION, INC., 1 Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889-0333. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Laminite Plastics Manufacturing Corp. of Morristown, TN.

MC 160767 (Sub-4), filed August 26, 1982. Applicant: LADD TRANSPORTATION, INC., 1 Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889-0333. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Holiday Inns Product Service Division of Memphis, TN.

MC 161526 (Sub-1), filed August 23, 1982. Applicant: QUALITY OPERATIONS, INC., 870 E Higgins Rd., Suite 143, Schaumburg, IL 60195. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163317, filed August 9, 1982. Applicant: MARL BROTHERS, INC., Depot St., Pine Bush, NY 12566. Representative: Arthur Pelikow, 233 Broadway, New York, NY 10279, (212) 349-4640. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in NY, and extending to points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25143 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Vol. No. 294]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: September 9, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 18689 (Sub-24)X, filed August 20, 1982. Applicant: HEADLEY'S EXPRESS AND STORAGE COMPANY, INC., 1100 Township Line Rd., P.O. Box 519, Chester, PA 19016. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Lead certificate: (1) broaden the commodity description in (a) parts 1, 2, 3, and 5 by deleting from the general commodities description, restrictions against transporting bullion, currency, securities, commodities requiring special equipment, those of unusual value, those requiring tank vehicles for their transportation, commodities requiring special equipment, livestock, films, silk, tobacco, new automobiles, liquid commodities in bulk in tank vehicles, and commodities requiring special refrigeration in transit; and (b) part 4 from ship equipment and machinery to "such commodities as are dealt in by ship manufacturers, refitters and suppliers and machinery"; and (2) broaden the territorial description (a) in parts 1 and 4 by changing Chester, PA and points within 15 miles thereof to "Delaware, Chester, Montgomery and Philadelphia Counties, PA, New Castle County, DE and Salem, Gloucester and Camden Counties, NJ"; (b) in part 2 by changing Chester, PA, and points in Pennsylvania, New Jersey, and Delaware within 35 miles of Chester to "points in Lancaster, Chester, Delaware, Philadelphia, Montgomery, and Bucks Counties, PA, Salem, Cumberland, Gloucester, Atlantic, Camden, and Burlington Counties, NJ, and New Castle and Kent Counties, DE"; (c) in part 3 by changing points in New Jersey and Delaware within 35 miles of Chester, PA to "point in Salem, Cumberland, Gloucester, Atlantic, Camden and Burlington Counties, NJ, and New Castle and Kent Counties, DE"; and (d) in part 5 by changing Wilmington, DE and points in Delaware within 50 miles of Wilmington to "Delaware" and points in Pennsylvania within 15 miles of Wilmington to "points in Chester, Delaware and Philadelphia Counties, PA."

MC 85374 (Sub-24)X, filed August 23, 1982. Applicant: FERRO TRUCKING, INC., 134 Washington Ave., Belleville, NJ 07019. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York NY 10048. Subs 1 and 4 permits, (1) broaden (a) food products, animal feeds, and materials used in the manufacture, * * * of such commodities, to "food and related products, chemicals and related products, and materials, equipment, and supplies used in the manufacture, * * * of such commodities", in Sub 1; (b) food products, pharmaceuticals, and food ingredients, and materials and supplies used in the sale * * * of such commodities, to "food and related products, and chemicals and related products, and equipment, materials, and supplies used in the sale * * * of such commodities", in Sub 4; (2) broaden to between points in the U.S. (except AK and HI), under continuing contract(s) with (a) manufacturers of food and related products and chemicals and related products, in Sub 1 and (b) named shippers in Sub 4, and (3) remove in bulk, in tank trucks exception, in Sub 4.

MC 108248 (Sub-17)X, filed August 13, 1982. Applicant: SHAW TRUCKING INCORPORATED, P.O. Box E, Brockway, PA 15824. Representative: James W. Patterson, 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107. Lead and Sub-Nos. 6, 9, 10, 11, 13, and 14F certificates: (1) broaden (a) the lead certificate to "building materials, roofing materials, and lumber and wood products" from roofing, roofing materials, finished lumber, sash and millwork, and insulating materials; "containers" from wooden shipping containers and empty containers; "clay, concrete, glass or stone products" from glass products, chinaware, and glass bottles; "metal products and instruments and photographic goods" from iron and brass castings and meters; "chemicals and related products" from chemicals and fertilizer; "food and related products" from feed and flour mill products; and "metal products, lumber and wood products, clay, concrete, glass or stone products, and rubber and plastic products" from agricultural commodities; (b) Sub 6, "rubber and plastic products" from plastic containers; and "lumber and wood products" from pallets used in the delivery of plastic containers; (c) Sub 9, "chemicals and related products and materials, equipments and supplies used in the manufacture and distribution thereof" from fertilizer and fertilizer materials; and "food and related products" from oyster shells used for feed and feed ingredients; (d) Sub 10, "pulp, paper and related products, and containers" from fiberboard or pulpboard boxes and containers; (e) Subs 11 and 14, "clay, concrete, glass or stone products, and rubber and plastic products" from glass bottles and plastic containers, and glass and plastic containers and materials, equipment and supplies; and (f) Sub 13, "chemicals and related products and rubber and plastic products" from expanded polystyrene; (2) remove restrictions specifying (a) "except glass bottles" in the lead and "except cut glass bottles" in Sub 11, (b) "except in bulk, in tank or hopper type vehicles" and "except fertilizer to points in two named PA counties" in Sub 9, and (c) "except in bulk" in Sub 13; (3) change from one-way authority to radial authority in all

Subs; and (4) broaden named points and facilities to countywide authority; (a) lead certificate, Niagara, Erie and Genesee Counties, NY (Niagara Falls and Akron); Summit, Medina, Portage, Stark, Wayne, Cuyahoga, Lorain, Geauga and Lake Counties, OH (Akron and Cleveland); Jefferson, Elk and Clearfield Counties, PA (Brockway); Essex County, NJ (Bloomfield); Mercer County, NJ, and Bucks County, PA (Trenton, NJ); Clearfield County, PA (Du Bois) and Jefferson County, PA (Falls Creek); Franklin, Fairfield, Madison, Delaware, Licking and Union Counties, OH (Columbus); Elk County, PA (Kersey); Cuyahoga, Lake, Lorain, Medina, and Summit Counties, OH (Cleveland and Willoughby); Erie and Niagara Counties, NY (Buffalo and Tonawanda); Westchester County, NY (Ossining); and Elk, Clearfield and Jefferson Counties, PA (Du Bois and points within 10 miles thereof); (b) Subs 6, 10, and 11, Jefferson, Elk and Clearfield Counties, PA (Brockway); (c) Sub 9, Cuyahoga, Lake, Lorain, Medina and Summit Counties, OH (Cleveland); and (d) Sub 13, Elk County, PA (facilities in Ridgway Township).

MC 117212 (Sub-10)X, filed August 26, 1982. Applicant: DIRECT WINTERS TRANSPORT (WESTERN), LTD., Downsview, Ontario, Canada M3H 5X3. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. Lead and Subs 3 and 6 (1) broaden to "food and related products", from meats, fresh, frozen, salted, cooked, cured, and preserved, diary products, meat products, . . . (except hides and commodities in bulk), in lead and all Subs; (2) change one-way to radial authority in lead and all Subs; (3) expand port of entry on the U.S.-Canada Boundary line at or near (a) Noyes, MN, and at or near Detroit, MI, to (points in MN and MI), in lead certificate, (b) Noyes, MN and Pembina, ND to (points in MN and ND), and at Detroit and Port Huron, MI, to (points in MI), in Subs 3 and 6; (3) remove (a) restriction against serving Noyes, MN and Detroit, MI, and against serving any intermediate point, in lead certificate, (b) facilities limitation at Logansport, IN and Lafayette, IN, and the originating at and destined to restriction, in Sub 6.

MC 135046 (Sub-27)X, filed July 30, 1982. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrma, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Lead and Subs 1, 2, 5, 6, 11, 12, 20F and 21F certificates and MC-113024 Subs 29, 66 and 150 permits: (1) broaden commodity descriptions from (a) plastic products, dry synthetic plastics, plastics, and plastic containers to "rubber and plastic products" in the lead and Subs 6, 11, and 20F certificates; (b) liquid latex to "forest products and chemicals and related products" in the lead certificate; (c) luggage and handbags to "leather and leather products" and hangers to "rubber and plastic products, pulp, paper and related products, and metal products" in Sub 1 certificate; (d) garbage disposal units, tanks, and water heaters accessories to "machinery and metal products" in Sub 5 certificate; (e) control panels and related control equipment to "machinery", synthetic fiber, yarn and staple to "textile mill products", and lubricating oil and greases to "petroleum and coal products" in Sub 12 certificate; (f) sinks to "rubber and plastic products, clay, concrete, glass or stone products, and metal products", work tables and cocktail units to "furniture and fixtures", and ice chests to "rubber and plastic products, metal products, and machinery" in Sub 21F certificate; and (g) pentaerythritol, plasticizer, dimethyl terephthalate, synthetic resins, ester gum, alcohol, sodium formate, and manufactured fertilizer to "chemicals and related products" in MC-113024 Subs 29, 66, and 150 permits; (2) eliminate facilities limitations in lead and Subs 5, 12, and 21F certificates; (3) broaden terrritorial description: Kennett Square, PA to Chester County, PA; Perryville, MD, to Cecil County, MD; Kankakee, IL, to Kankakee County, IL; Clayton, DE, to Kent County, DE; Yorklyn, DE, to New Castle County, DE; Middletown, DE, to New Castle County, DE; Sherman, TX, to Grayson County, TX; Marshallton, DE, to New Castle County, DE; Addison, IL, to DuPage County, IL; Santa Ana, CA, to Orange County, CA; Ampthill, VA, to Chesterfield County, VA; Wilmington, DE, to New Castle County, DE; Seaford, DE, to Sussex County, DE; Chattanooga, TN, to Hamilton County, TN; Old Hickory, TN, to Davidson County, TN; Graingers, NC, to Lenoir County, NC; Lugoff, SC, to Kershaw County, SC; Cypress Gardens, SC, to Charleston County, SC; Cape Fear, NC, to Brunswick County, NC; Charlotte, NC, to Mecklenburg County, NC; Dover, DE, to Kent County, DE; Lewes and Lincoln, DE, to Sussex County, DE; Cape May Court House, NJ, to Cape May County, NJ; Mays Landing, NJ, to Altantic County, NJ; Millville, NJ, to Cumberland County, NJ; Salem, NJ, to Salem County, NJ; Clinton, NJ, to Hunterdon County, NJ; Somerville, NJ, to Somerset County, NJ; Livingston, NJ, to Essex County, NJ; Trenton, NJ, to Mercer County, NJ; Aspers, PA, to Adams County, PA; Carlisle, PA, to Cumberland County, PA; Gettysburg, PA, Adams County, PA; Hanover, PA, to York County, PA; Harrisburg, PA, to Dauphin County, PA; Mechanicsburg, PA, to Cumberland County, PA; New Freedom, PA, to York County, PA; New Oxford, PA, to Adams County, PA; Red Lion, PA, to York County, PA; Seven Stars, PA, to Adams County, PA; Stewartstown, PA, to York County, PA; York, PA, to York County, PA; Carbondale, PA, to Lackawanna County, PA; Daleville, PA, to Lackawanna County, PA; Evans Falls, PA, to Wyoming County, PA; Luzerne, PA, to Luzerne County, PA; Elkins Park, PA, to Montgomery County, PA; Willow Grove, PA, to Montgomery County, PA; Hazleton, PA, to Luzerne County, PA; Lehighton, PA, to Carbon County, PA; Tamaqua, PA, to Schuylkill County, PA; Martinsburg, PA, to Blair County, PA; Montrose, PA, to Susquehanna County, PA; Perkasie, PA, to Bucks County, PA; Phoenixville, PA, to Chester County, PA; Pottstown, PA, to Montgomery County, PA; Scranton, PA, to Lackawanna County, PA; Tunkannock, PA, to Wyoming County, PA; Centerport, PA, to Berks County, PA; Danville, PA, to Montour County, PA; Elizabethtown, PA, Lancaster County, PA; Everett, PA, to Bedford County, PA; Falls Creek, PA, to Jefferson and Clearfield Counties, PA; Huntingdon, PA, to Huntingdon County, PA; Ridgeway, PA, to Elk County, PA; Brandywine, MD, to Prince Georges County, MD; Frederick, MD, to Frederick County, MD; Gaithersburg, MD, to Montgomery County, MD; Hancock, MD, to Washington County, MD; Laytonsville, MD, to Montgomery County, MD; Keyser, WV, to Mineral County, WV; Yorkville, IL, to Kendall County, IL; Naperville, IL, to DuPage County, IL; LeCenter, MN, to LeSuer County, MN; Milford, DE, to Sussex County, DE; Smyrna, DE, to Kent County, DE; and (4) remove restrictions, wherever they appear, against: in containers; in bags; except in bulk/in tank vehicles; in cartons; commodities requiring the use of special equipment/handling; uncrated and blanket wrapped; in packages; size or weight; and on beams.

MC 148584 (Sub-1)X, filed August 23, 1982. Applicant: DONNA BARTOLI, d.b.a. DON-BAR FREIGHT, 4550 W. 87th St., Chicago, IL 60652. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Lead certificate: Remove restriction to transportation of shipments having prior or subsequent movement by water or rail.

[FR Doc. 82-25142 Filed 9-13-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-250)]

Atchison, Topeka & Santa Fe Railway Co.—Exemption for Contract Tariff ICC-ATSF-C-0115 (Wine)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 7, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25146 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-247)]

Consolidated Rail Corporation Exemption for Contract Tariff ICC-CR-C-0043A (Freight, all Kinds)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

The grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 8, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25144 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-249)]

Soo Line Railroad Company Exemption for Contract Tariff ICC-SOO-C-0090 (Wheat)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

The grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation or energy resources.

(49 U.S.C. 10505)

Decided: September 8, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25145 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-218]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grant of operating right authority is republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 148393 (Sub-8) (Republication) filed January 29, 1982, published in the **Federal Register** of February 25, 1982, and republished this issue: Applicant: WREN TRUCKING, INC., 1989 Harlem Rd., Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. A decision of the

Commission, *Review Board 1*, decided May 26, 1982, and served June 1, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, North Carolina, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, West Virginia, Wisconsin, and the District of Columbia; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-25137 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-234N)]

Conrail Abandonment Between Erie and Warren, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate and decision authorizing the Consolidated Rail Corporation to abandon portions of its rail line between (1) mileposts 24.0 and 27.0 in Union City, PA and (2) mileposts 36.0 near Corry, PA, to milepost 58.5 near Irvine, PA, a total distance of 25.5 miles effective on June 11, 1982.

The net liquidation value of the line between (1) mileposts 24 and 27 is $150,321 and (2) mileposts 36 and 58.5 is $1,303,589. If, within 120 days from the date of this publication, Conrail receives bona fide offers for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25138 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-248]

Denver and Rio Grande Western Railroad Company Exemption for Contract Tariff ICC-DRGW-C-0027, Supplement 2, (Canned Goods)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due on or before September 29, 1982.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

Ths grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will ot significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 7, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25146 Filed 9-13-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30028]

Pocono Northeast Railway, Inc.—Exemption—Issuance of Notes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the proposed issuance of notes in the aggregate principal amount of $1,735,000 by the Pocono Northeast Railway, Inc., for certain corporate purposes.

DATES: Exemption effective on September 14, 1982. Petitions to reopen must be filed by October 4, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative, R. Lawrence McCaffrey, Jr., 1575 I Street NW., Washington, DC 20005.

Pleadings should refer to Finance Docket No. 30028.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue, NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area; (800) 424-5403—Toll free for outside the DC area

Decided: September 10, 1982.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25360 Filed 9-13-82; 9:16 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Notice of Meetings and Agenda

The fall meetings of the Committees on Economic Growth and Productivity-Foreign Labor of the Business Research Advisory Council will be held on September 29, 1982, in Room 7216 of the Bicentennial Building, 600 E Street, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Wednesday, September 29

9:30 a.m.—Committee on Productivity-Foreign Labor

1. Election of Officers
2. The Current Status of Work on Multifactor Productivity
3. Review of Other Programs
4. Other Business

Wednesday, September 29

2:00 p.m.—Committee on Economic Growth

1. Review of Work in Progress
   (a) High-Technology Industries and Employment
   (b) Construction Industry
   (c) Defense-Related Industry
2. Discussion of Proposed Assumptions for 1995 Projections
3. Other Business

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272-5241.

Signed at Washington, D.C. this 10th day of September 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-25369 Filed 9-13-82; 9:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the Virgin Islands

This notice announces the ending of the Extended Benefit Period in the Virgin Islands, effective on August 28, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the Virgin Islands on February 21, 1982 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 7, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on August 28, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on August 31, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-25192 Filed 9-13-82; 8:45 am]

BILLING CODE 4510-30-M

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 August 30, 1982–September 3, 1982.

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 subdivision 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-12,680; HI-LO Manufacturing Corp., New York, NY

TA-W-12,840; Sharon Steel Corp., Bayard Operations, Hanover, NM

TA-W-12,950; Ralco Sewing Industries, Inc., Olive Hill, KY

TA-W-13,051; Rodefer-Gleason Glass Co., Bellaire, OH

TA-W-13,088; Grico Manufacturing, Inc., Mt. Clemens, MI

TA-W-13,115; Hamilton Cedar Products, Inc., Sedro Woolley, WA

TA-W-13,121; Scullin Steel Co., St. Louis, MO

TA-W-13,167; Wilco Products, Inc., Bronx, NY

TA-W-12,856; Brown & Sharpe Manufacturing Co., North Kingstown, RI

TA-W-13,099; Driver-Harris Co., Harrison, NJ

TA-W-13,169; Canal Sportswear, Inc., New York, NY

TA-W-13,043; Spartan Undies, Inc., Imerman Div. of Jonathan Logan, Inc., Spartanburg, SC

TA-W-13,103; Roblin Steel Co., North Tonawanda, NY

TA-W-11,425; Permold Corp., Medina, OH

TA-W-12,629; APT Corp., Cambridge, MA

TA-W-12,803; R. B. Baro Clothes, Inc., Brooklyn, NY

TA-W-12,785; Hyster Co., Danville, IL

In the following cases the investigation revealed that criterion (3)

has not been met for the reasons specified.

TA-W-12,793; Eastern Blouse Manufacturing Co., New York, NY

The investigation revealed that criterion (3) has not been met. Imports did not increase during the period under investigation.

TA-W-13,134; Knapp King-Size Corp., Derry, NH

The investigation revealed that criterion (3) has not been met. Imports did not increase during the period under investigation.

TA-W-12,912; Greenville Steel Car Co., Greenville, PA

Aggregate U.S. imports of railroad freight cars did not increase as required for certification.

TA-W-13,122; Valli Fashions Co., Inc., Hoboken, NJ

The investigation revealed that criterion (2) has not been met. Sales or production or both did not decrease as required for certification.

TA-W-12,961; Steve Matson Products, Inc., New York, NY

Steve Matson Products, Inc., moved its production facilities to another domestic location.

TA-W-12,922; Malden Mills, Inc., Hudson, NH Plant, Hudson, NH

Imports of finished fabric declined during the period under investigation.

TA-W-13,002; Malden Mills, Inc., Lawrence, MA

Imports of finished fabric declined during the period under investigation.

TA-W-12,955; Cowden Manufacturing Co., Waverly, TN

Sales of women's jeans by Cowden increased from 1980 to 1981. Imports of men's jeans declined absolutely and relative to domestic production from 1980 to 1981.

Affirmative Determinations

TA-W-13,118; Peabody House, Inc., New York, NY

A certification was issued in response to a petition received on November 23, 1981 covering all workers separated on or after June 30, 1981.

TA-W-13,123; W.S. Shanhouse & Son, Inc., Hope, AR

A certification was issued in response to a petition received on November 20, 1981 covering all workers separated on or after June 1, 1981.

TA-W-13,147; Limerick Footwear, Inc., Limerick, ME

A certification was issued in response to a petition received on December 15, 1981 covering all workers separated on or after August 1, 1981.

TA-W-12,954; Anchor Hocking Corp., Ceramic Products Div., Chester, WV

A certification was issued in response to a petition received on August 28, 1981 covering all workers separated on or after December 1, 1980 and before February 28, 1982.

TA-W-13,171; Crocker Technical Papers, Inc., #5 Mill, Fitchburg, MA

A certification was issued in response to a petition received on December 28, 1981 covering all workers separated on or after October 1, 1981.

TA-W-12,860; Pacific Trail, Inc., Spokane, WA

A certification was issued in response to a petition received on July 21, 1981 covering all workers, except shipping department workers, separated on or after July 15, 1980 and before January 1, 1982.

TA-W-12,743; LGAM Manufacturing Co., Woodsfield, OH

A certification was issued in response to a petition received on June 3, 1981 covering all workers separated on or after February 28, 1981.

TA-W-12,769; Tauton Silversmith, Ltd, Taunton, MA

A certification was issued in response to a petition received on June 8, 1981 covering all workers separated on or after May 13, 1981.

TA-W-13,008; Dee Sportswear, Inc., Newark, NJ

A certification was issued in response to a petition received on September 22, 1981 covering all workers separated on or after September 12, 1980 and before December 31, 1980.

TA-W-13,006; Wilwin Cedar Products, Inc., Port Angeles, WA

A certification was issued in response to a petition received on September 22, 1981 covering all workers separated on or after August 1, 1981.

TA-W-12,959; Merek, Inc., New York, NY

A certification was issued in response to a petition received on September 1, 1981 covering all workers separated on or after August 24, 1980 and before December 31, 1981.

TA-W-13,072; H & R Johnson, Inc., Keyport, NJ

A certification was issued in response to a petition received on October 20, 1981 covering all workers separated on or after October 9, 1980 and before July 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period August 30, 1982–September 3, 1982. Copies of these determinations are available for inspection in Room 10,322, 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: September 7, 1982.

Robert Carpenter,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-25193 Filed 9-13-82; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Exemption Application Nos. L-3348 and L-3347]

Proposed Exemption for Certain Transactions Involving the Southeast Florida Laborer's District Council Severance Pay Trust Fund and Southeast Florida Laborer's District Council Dental, Vision and Preventive Care Trust Fund Located in Miami, Florida

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed transfer of residual assets from the Southeast Florida Laborer's District Council Serverance Pay Trust Fund (the Severance Plan) to the Southeast Florida Laborer's District Council Dental, Vision and Preventive Care Trust Fund (the DVP Plan). The Severance Plan and the DVP Plan together are referred to as the Plans. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 25, 1982.

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, N.W., Washington, D.C. 20216, Attention: Application Nos. L-3347 and L-3348. The application 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 N4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the trustees (the Trustees) of the Plans, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plans were established and have continued in existence pursuant to a series of collective bargaining agreements (the Agreements) entered into between the Southeast Florida Laborers District Council (on behalf of various local unions representing laborers in the Southeast Florida area) and various multiemployer associations representing constructioin contractors in the Southeast Florida area. The participants of the Plans are employees of various employers signatory to the Agreements. Each of the Plans are funded through employer contributions required by the Agreements. Up until the time contributions to the Severance Plan were no longer required, an employer contributing on behalf of an employee to one of the Plans was also required to make a contribution on behalf of that same employee to the other Plan. As a result of this, the structure of the Plans, and the maner in which they were established, the participants of each have traditionally been and are substantially identical. The Trustees of the Plans are identical.

2. During 1979, the Trustees of the Severance Plan agreed to terminate and dissolve the Plan, liquidate all of its assets amd distribute the assets to eligible participants. In accord with this resolution, periodic distributions have been made to eligible participants since December of 1979. Under the formula most recently utilized, eligibility for distribution was achieved by an employee/participant having acquired 5,000 working hours upon which contributions has been made by his employers. Pursuant to this formula, the last distribution was attempted among a total of 1,348 eligible participants. Many of the checks mailed to eligible participants were returned to the Severance Plan because the potential recipient had moved without providing the Plan a new address or the Postal Service a forwarding address. Despite remailings, notices posted at union halls, announcements made at union meetings, notices published in union publications, review of union records for more recent addresses, and other diligent efforts to locate participants eligible for such distributions, substantial amounts of the distribution remained unaccepted.

3. The Severance Plan has been inactive for several years, with no employer contributions having been made pursuant to the Agreements. As a result of periodic distributions, administrative expenses, etc., the asset amount in the Severance Plan has been substantially diminished. The Trustees of the Severance Fund are now considering the proper method for distributing these remaining assets. At this time, the Severance Plan's assets are approximately $18,975.00. The applicants represent that if the Severance Plan were to make another distribution using the same formula as described above the Severance Plan would incur an administrative expense in excess of $8,000. With 1,348 participants, each participant of the Severance Plan would thus receive a payment of approximately $7.75.

4. The Trustees represent that because of the administrative expense and small payout of a further distribution it would be more beneficial for the participants and beneficiaries of the Plans to transfer the $18,975 in the Severance Plan into the DVP Plan. The Trustees further represent that if the money is left in the Severance Plan, it will be dissipated by the expense of maintaining the Severance Plan.

5. In summary, the applicants represent that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) It will be a one time transaction of an inactive plan; (2) it will prevent dissipation of the assets of the Severance Fund due to the administrative costs of maintaining the Severance Plan; and (3) it will eliminate large administrative costs which will otherwise be incurred by the Severance Plan in distributing the assets directly to the participants.

Notice to Interested Persons

Within 10 days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be mailed to all employer associations signatory to the Agreements, all employee organizations affiliated with the Southeast Florida Laborers District Council. Within the same time period, the same information will be posted on the bulletin boards of all local unions (and any separate hiring halls) affiliated with the Southeast Florida Laborers District Council, as well as the bulletin board at the offices of the Southeast Florida Laborers District Council and the office of Administrative Service, Inc., the administrative manager of the Plans.

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 does not relieve a fiduciary or other party in interest from certain other provisions of the Act, 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.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a) and 406 (b)(1) and (b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, 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

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, 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.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act 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(b)(2) of the Act shall not apply to the transfer by the Severance Plan of approximately $18,975 in residual assets to the DVP Plan.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 30th day of August, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

FR Doc. 82-25196 Filed 9-13-82; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Appeals Rights and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Publication of Brochure.

SUMMARY: The Merit Systems Protection Board announces the printing of a new publication "Appeals Rights and Procedures." The publication provides comprehensive descriptions of the Board's jurisdiction, organization, and procedures, and is designed to assist Federal workers and agencies seeking information about the Board. Small numbers of the pamphlets may be obtained from the Board. Federal agencies may order bulk quantities of the brochure by riding the Board's printing requisition #358-264 at the Government Printing Office. Agencies should submit a Standard Form 1, open requisition, citing the title of the publication and its number. Agency regional offices must submit requests through their Washington, D.C. printing procurement offices. Agencies must submit their rider by September 15, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Ferrell, Public Information and Media Services Division, Office of Legislative Counsel, Merit Systems Protection Board, Room 914, 1120 Vermont Avenue, NW., Washington, D.C. 20419, 202/653-7175.

Dated: August 31, 1982.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-25184 Filed 9-13-82; 8:45 am]

BILLING CODE 7400-01-M

Issuance of Orders Under Section 1205(e) Regarding Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Notice of orders and opportunity to file comments in board proceedings.

SUMMARY: 5 U.S.C. 1205(e) authorizes the Board to review rules and regulations issued by the Office of Personnel Management and their implementation by other Federal agencies in order to determine if they have required or would require any Federal employee to commit a prohibited personnel practice in violation of 5 U.S.C. 2302(b). The Board has issued orders, described below, under section 1205(e). Those orders schedule one matter for review and deny review of a second petition filed pursuant to section 1205(e)(1)(B).

DATES: In the matter scheduled for review, the respondents' briefs are to be filed by September 5, 1982. Interested persons are invited to file comments. These comments may be filed at any time prior to Board's determination but the Board cannot guarantee that it will be able to consider filed comments unless they are received by October 1, 1982. All filings are to be made in accordance with 5 CFR Part 1203, the Board's interim regulations governing review of OPM regulations. 46 FR 2326 (Jan. 9, 1981). All pleadings, briefs and comments received in these matters will be publicly available for inspection in the Office of the Secretary of the Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419, (202) 653-7200.

ADDRESS: Comments should be submitted in writing and addressed to Office of the Secretary, Merit Systems Protection Board, Special Case Management Division, 1120 Vermont Avenue, N.W., Washington, D.C. 20419 (202) 653-7200.

FOR FURTHER INFORMATION CONTACT: Bruce Mayor, Office of the General Counsel, Merit Systems Protection Board, (202) 653-7171.

SUPPLEMENTARY INFORMATION: The Board will review the following rule raised in a petition filed pursuant to 5 U.S.C. 1205(e)(1)(B):

FPM Chapter 771, subchapter 2-7, section c(1)(c) interpreting 5 CFR 771.206 which provides in relevant part that nonselection for promotion from a group of properly ranked and certified candidates may not be grieved through an agency grievance system. The FPM provision at issue states that "the principle of nonselection for promotion includes the decision not to promote an employee noncompetitively, e.g., nonpromotion of an employee in a career ladder classification series." (*Warren M. Joseph* v. *Donald J. Devine, Director, Office of Personnel Management and Roscoe L. Egger, Jr., Commissioner, Internal Revenue Service,* Docket No. HQ12058110067). The petition raises a valid question as to whether OPM's interpretive rule is consistent with 5 CFR 771.205 which specifically limits the exclusions from an agency grievance system to those enumerated at 5 CFR 771.206.

The issues to be addressed in this review are: (1) whether 5 CFR Part 771, in particular § 771.205, implements or directly concerns the merit system principles, especially those found at 5 U.S.C. 2301(b)(5) and (b)(8); (2) the historical development of the rule at issue; and (3) the manner in which grievances concerning nonpromotion of employees in career ladder series have been historically handled.

The Board will not review the following rule raised in a petition filed with its pursuant to 5 U.S.C. 1205(e)(1)(B):

5 CFR 351.402 which requires each agency to establish competitive areas for purpose of reduction-in-force and sets out the Standards for competitive areas, (Petition of Office of Legislative and Public Affairs Legal Defense Committee dated February 10, 1982).

Dated: August 31, 1982.

For the Board:
Herbert E. Ellingwood,
Chairman.
[FR Doc. 82-25185 Filed 9-13-82; 8:45 am]
BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-50]

NASA Advisory Council (NAC); Meeting Postponement

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting postponement.

SUMMARY: The scheduled meeting on September 16-21, 1982, of the NAC Informal Solar System Exploration Committee, published in the **Federal Register** August 31, 1982, (47 FR 38437), has been postponed until further notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, DC 20546 (202/755-6038).

Richard L. Daniels,
Director, Management Support Office, Office of Management.
September 7, 1982.
[FR Doc. 82-25108 Filed 9-13-82; 8:45 am]
BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

[Released No. 12642; (812-5019)]

American Express Variable Annuity Fund Inc.; Application for Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that American Express Variable Annuity Fund Inc. ("Applicant") 1600 Los Gamos Road, San Rafael, California 94911, filed an application on November 20, 1981, with amendments thereto on May 24, 1982, July 15, 1982, and August 26, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit it to value its Money Market Portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant is a no-load, open-end, diversified management investment company, organized as a Maryland corporation on November 17, 1981. The Applicant represents that, although it is authorized to establish portfolios other than the Money Market, Income and Growth Portfolios, as of the date of this application, the directors do not contemplate offering shares in any other portfolio. At present, shares issued by the Applicant will be offered only to separate accounts of insurance companies in the Fireman's Fund Group in connection with the issuance of tax-deferred variable annuity contracts. Applicant will employ Amfire, Inc., a wholly-owned subsidiary of Fireman's Fund American Life Insurance Company ("FFAL"), as its investment adviser. The Boston Company Advisors, Inc., an indirect wholly-owned subsidiary of Shearson/American Express, Inc. ("Shearson") will act as administrator for the Applicant.

The Applicant represents that the Money Market Portfolio's investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity. Applicant states that it will pursue this objective by investing the assets of the Money Market Portfolio in a variety of obligations maturing within one year from the date of acquisition. Further, the Money Market Portfolio will maintain a dollar-weighted average portfolio maturity of 120 days or less.

Applicant states that the assets of the Money Market Portfolio will be invested in short-term obligations including: Securities issued or guaranteed by the United States government or its agencies or instrumentalities; time deposits; certificates of deposit, including those issued by domestic banks, foreign branches of domestic banks, domestic branches of foreign banks, and savings and loan and similar associations; bankers' acceptances; repurchase agreements; and high grade commercial paper.

The Money Market Portfolio may from time to time lend securities from its portfolio to brokers, dealers and financial institutions and receive collateral consisting of securities issued or guaranteed by the United States government that will be maintained at all times in an amount equal to at least 100% of the current market value of the lent securities. Any loans of portfolio securities will be made according to guidelines established by the Commission and Applicant's board of directors. Additionally, in determining whether to lend securities to a particular broker, dealer or financial institution, Applicant's investment adviser will consider all relevant facts and circumstances, including the creditworthiness of the broker, dealer or institution. Applicant will not enter into any securities lending agreement having a duration in excess of one year; and any securities with maturities in excess of one year that the Applicant may receive as collateral for a particular loan will not become part of the Applicant's portfolio either at the time of the loan or in the event the borrower defaults on its obligation to return the loaned securities.

Section 2(a)(41) of the Act, in relevant part, defines "value" to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 provides, in relevant part, that no registered investment company nor principal underwriter therefor, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, in relevant part, that the "curent net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things, it is inconsistent with the provisions of Rule 2a-4 for a money market fund to value its portfolio instruments having maturities in excess of 60 days on an amortized cost basis and that such valuation should be made with reference to market factors (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt

any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the exemptive relief requested, Applicant asserts that money market funds are attractive investments for a wide range of investors, such as insurance company separate accounts and the variable annuity contract owners who participate therein, because these funds offer relative stability of principal and a steady flow of predictable income at a currently competitive rate. The Applicant believes that for the Money Market Portfolio to be in a position to meet the needs and expectations of investors, including variable annuity contract owners, and to offer these persons relative stability of principal and a steady flow of predictable income at currently competitive rates, it must be able to price its portfolio at amortized cost. Applicant asserts that, if it is not permitted to price its Money Market Portfolio at amortized cost, it will have difficulty maintaining a constant net asset value per share. Applicant asserts that inability to use the amortized cost method to price its Money Market Portfolio securities could result in artificial yield differentials caused by insignificant changes in the market price of securities in its Money Market Portfolio. Applicant maintains that an unstable net asset value per share and artificial yield differentials would be clearly contrary to the best interests of investors, including contract owners.

In order to enhance investor protection, the Applicant consents to issuance of the requested order of exemption being made subject to the following conditions:

1. In supervising the Applicant's operations and delegating special responsibilities involving Money Market Portfolio management to the Applicant's investment adviser, the Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Money Market Portfolio's investment objectives, to stabilize the Money Market Portfolio's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Include within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Money Market Portfolio's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, the Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources:

(b) In the event such deviation from the Money Market Portfolio's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated; and

(c) Where the board of directors believes the extent of any deviation from the Money Market Portfolio's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the Money Market Portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Money Market Portfolio will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Money Market Portfolio will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest the Money Market Portfolio's available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. The Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. The Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of meetings of the board of directors. The documents perserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the portfolio investments, including repurchase agreements, of its Money Market Portfolio, to those United States dollar-denominated instruments that the board of directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. The Applicant will include as an attachment to each Form N-1Q it files, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be

filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advise as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25199 Filed 9-13-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19041; File No. SR-NASD-82-12]

Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc.

September 7, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on August 18, 1982, the National Association of Securities Dealers, Inc. ("NASD"), 1750 K Street, NW., Washington, D.C. 20006, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change will require exclusion of an issuer from the National List when an issuer files under any section of the Bankruptcy Act (11 U.S.C. 701, 1101 (Supp. IV 1980)) or announces that liquidation has been authorized by its board of directors and that the company is committed to proceed. The National List, a list of quotations for over-the-counter stocks, is published in 70 major newspapers throughout the country. To be included in the National List a security must comply with various requirements including financial standards and volume standards. The Board of Governors of the NASD believes that the inclusion in the National List of companies that are bankrupt or in the process of liquidating is inconsistent with the established financial criteria. The NASD states that exceptions to allow an issuer to continue on the National List will be made when it is in the public interest to do so.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. The Commission, however, may abrogate summarily the proposed rule change any time within 60 days of the filing if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NASD-82-12.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the main office of the NASD in Washington.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25198 Filed 9-13-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12645; 812-5233]

E. F. Hutton and Company Inc. and Directions Unit Investment Trust, First Series and Subsequent Series; Filing of Application Pursuant to Section 6(c) of the Act for an Order Granting Exemption From the Provisions of Sections 14(a) and 22(c) of the Act and Rule 22c-1 Thereunder

September 8, 1982.

Notice is hereby given that E. F. Hutton & Company Inc. ("Hutton" or "Sponsor") and Directions Unit Investment Trust, First Series and Subsequent Series (the "Trust") (collectively, "Applicants"), One Battery Park Plaza, New York, New York 10004, filed an application on July 2, 1982, and amendments thereto on August 30, 1982, and September 3, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants to the extent necessary (1) from the requirements of Section 14(a) of the Act, and (2) from the provisions of Section 22(c) of the Act and Rule 22c-1 thereunder to permit the Sponsor, in selling units of each series of the Trust to the public, to fill purchase orders received on the first day of the intitial public offering period at a price based on the value of the Trust's assets determined as of the close of business on the business day prior to such date. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Trust is a registered unit investment trust whose investment objective is to achieve capital appreciation by investing in a portfolio of thirty equity securities (common stocks or securities convertible into common stocks) identified as undervalued by Hutton's "Directions" valuation program. Hutton is registered with the Commission as a broker-dealer and as an investment adviser and will serve as the Sponsor and depositor of the Trust. Applicants state that the Trust will be created under the laws of Massachusetts by execution of a Serial Trust Indenture between the Sponsor and the Bank of New England, N.A. as Trustee (the "Trustee"), and the public sale of the units will be accomplished through the Sponsor as sole underwriter.

Applicants state that the units will be offered to the public at a public offering price which will include a sales charge equal to 3% of the public offering price (3.093% of the net amount invested). Applicants further state that only whole units may be purchased and that the minimum purchase is five units, except that the minimum purchase in connection with an Individual Retirement Account (IRA) or other tax-deferred retirement plan is one unit.

Applicants state that following the selection of the thirty equity securities for deposit in a series of the Trust (the "Underlying Securities"), the Sponsor will deposit with the Trustee the Underlying Securities and/or assignments of the right to receive such securities under purchase contracts on the effective date of the registration

[1] 17 CFR 200.30.

statement under the Securities Act of 1933 for units of the series (the "Date of Deposit"), which is also the first day of the initial public offering period. Simultaneously, Applicants state, the Trustee will deliver to the Sponsor a certificate (or certificates) for units representing fractional undivided interests in the series, and such units will represent the entire ownerhsip of the series.

Applicants represent that in forming each series of the Trust, the Sponsor intends to deposit on the Date of Deposit securities having an aggregate value of $970.00 per unit, with such value determined as of the close of the New York Stock Exchange ("Valuation Time") on the business day preceding such Date of Deposit. The Sponsor further proposes to sell units to the public pursuant to orders received on the Date of Deposit at a price per unit of $1,000, of which $970 will represent net asset value and $30 will represent the sales charge. Thus, the net asset value per unit used to calculate the public offering price for orders received on the Date of Deposit will be calculated as of the Valuation Time on the preceding business day. Applicants state that the initial public offering period will continue unit all units of the series have been sold but not for more than thirty days. Applicants further state that beginning on the business day following the Date of Deposit, the public offering price will based on the net asset value per unit next determined after receipt of the purchase order.

Applicants state that units will be redeemed at the net asset value per unit next determined after receipt of the redemption request by the Trustee. The application states that the Sponsor may purchase units tendered to the Trustee for redemption. In addition, Applicants state that the Sponsor may maintain a market for the units and continuously offer to purchase units at the net asset value per unit next computed after receipt of an order by the Sponsor. The Applicants state that any sales of units by the Sponsor in the secondary market will be at a price based on the net asset value per unit next determined after receipt of the purchase order, plus a sales charge of 3% of the public offering price. The Applicants further state that the Sponsor may cease to maintain such a market at any time, without notice, and that in the event that a secondary market for the units is not maintained by the Sponsor, a unit holder desiring to dispose of the units may nonetheless tender such units to the Trustee for redemption at the net asset value next determiend after receipt of such request.

Section 14(a) of the Act provides, in relevant part, that no registered investment company or principal underwriter for such a company shall make a public offering of the company's securities unless: (1) The company has a net worth of at least $100,000, or (2) provision is made as a condition of registration that no securities will be issued until firm agreements for purchases sufficient to provide a net worth of $100,000 have been obtained from not more than twenty-five responsible persons, and that the entire proceeds received, including sales charges, will be refunded on demand in the event net worth is not at least $100,000 within 90 days of the effective date.

Applicants submit that Section 14(a) is designed to ensure that investment companies are adequately capitalized prior to sales of their securities to the public. In this regard, Applicants state that each series, at the Date of Deposit of the Underlying Securities and before any unit is offered to the public, will have a net worth, represented by the value of the Underlying Securities, far in excess of $100,000. Applicants submit that, because each series will have a net worth in excess of $100,000 on the Date of Deposit, to require the Sponsor to invest $100,000 or more in units of each series under an investment letter representing that such purchase is for investment and not for resale to the public (or to make such a private placement to outside parties) is not necessary for the protection of unitholders, but will only increase the cost to the Sponsor of forming each series and marketing the units.

Applicants further state that the Commission has provided exemptive relief from Section 14(a) of the Act, based on conditions designed to ensure that each purchaser would receive his pro rata share of the net worth of the trust and a refund of any sales charges in the event the trust failed to become a going concern. Applicants state that the terms of these individual exemptive orders for unit investment trusts have been codified in an exemptive rule (Rule 14a-3 under the Act) which allegedly would be available to the Applicants were it coverage not limited to unit trusts investing exclusively in "eligible trust securities" as defined in paragraph (b) of the Rule. Applicants contend that the Commission determined to limit the exemptive relief in Rule 14a-3 to unit trusts investing solely in eligible trust securities not because the Commission had determined that such relief would not be appropriate for unit trusts investing in other types of securities, but simply because it lacked specific administrative experience with such trusts.

The Application states that the Sponsor agrees as a condition to the requested exemption that it will refund, on demand and without deduction, all sales charges to purchasers of units of any series from the Sponsor and liquidate the Underlying Securities of the series and distribute the proceeds thereof if, within ninety days from the time that the registration statement relating to the units of such series shall have become effective under the Securities Act of 1933, the net worth of the series shall be reduced to less than $100,000 or if such series shall have been terminated. The Sponsor has further agreed to instruct the Trustee to terminate such series in the event redemption by the Sponsor of units which have not been sold in the initial distribution thereof results in such series having a new worth of less than 40% of the value on the Date of Deposit of the securities initially deposited, and that, in the event of any such termination, the Sponsor will refund, on demand and without reduction, all sales charges to purchasers of units of such series from the Sponsor. The Sponsor further agrees to insure that any future sponsor will, as a condition to becoming a sponsor, agree to the foregoing undertakings.

Rule 22c-1 adopted pursuant to Section 22(c) of the Act provides, in part, that no registered investment company issuing any redeemable security, and no dealer in any such security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants state that Hutton proposes to sell units of each series pursuant to purchase orders received on the Date of Deposit for that series at a public offering price which is based on the net asset value per unit determined with reference to the values of the Underlying Securities at the close of the New York Stock Exchange on the preceding business day. Hutton agrees, however, as a condition to the requested exemptive order, that if the public offering price determined on the basis of the net asset value per unit as of the close of business on the Date of Deposit is more than 2.5% below the public offering price determined at the close of the preceding business day (a $25 decline on a $1,000 unit or 2.58% of the initial net asset value of $970), it will effect all purchase orders received on

the Date of Deposit at the lower (forward) price.

Beginning on the business day following the Date of Deposit, the public offering price will be based on the current net asset value per unit next determined after receipt of the purchase order, plus the sales charge of 3.0% of the public offering price. The new asset value next determined also will be used in calculating the unit price for all redemptions, and for all purchases and sales by the Sponsor in connection with its secondary market activities.

Applicants request that the Commission issue an order exempting Applicants from the requirements of Section 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the proposed method of pricing the units for orders received on the Date of Deposit.

Applicants state that they believe that the proposed method of pricing the units for purchase orders received on the Date of Deposit is fair to unit holders and does not present the potential for any of the abuses that Rule 22c-1 under the Act was designed to prevent. According to Applicants, in Investment Company Act Release No. 5519 (October 16, 1968), in which Rule 22c-1 was adopted, the Commission cited two purposes for Rule 22c-1: (1) To eliminate any dilution in the value of investment company shares which might occur through the practice of selling securities at a price based on a previously established value which permits a potential investor to take advantage of an increase in the value of investment company shares which is not yet reflected in the price for such shares; and (2) to eliminate certain speculative trading practices.

Applicants assert that where, as here, a sponsor forms a trust by depositing portfolio securities in return for all units of the trust, trust assets are in no way affected by the method of pricing the units in the initial public offering. Applicants suggest that the method they have proposed for pricing units on the Date of Deposit is analogous to the so-called "backward pricing" used with respect to secondary market transactions and that, like the secondary market activities, their proposal cannot result in dilution of the interests of unitholders.

According to the application, the proposed method of pricing units on the Date of Deposit offers the advantage to investors of providing a uniform, specified public offering price for purchasers submitting orders on that date. Applicants argue that the forward pricing requirements of Rule 22c-1 can be confusing to investors in unit trusts that forward price on the date of deposit. Brokers seeking indications of interest from potential investors generally give an estimated price per unit in round numbers (*e.g.*, $1,000 per unit) based on the sponsor's intention to establish units of approximately that value in forming the trust. Though the effective prospectus for a trust that sells units at a forward price on the date of deposit sets forth the calculation of the public offering price, the price given is that which would have been effective had the trust been formed on the business day preceding the date of deposit. Accordingly, the price set forth in the prospectus is not the price at which any purchases of units will be effected. Rather, purchases are effected and confirmations are sent out at a revised (forward) price established pursuant to Rule 22c-1. Upon receipt of the confirmation and prospectus, the purchaser may be confused and concerned by the difference between the price in the prospectus and the price on the confirmation (neither of which is the round number of the estimated price), particularly where the transaction is confirmed at a price higher than that set forth in the prospectus. If the order requested herein is granted, purchasers of Trust units on the Date of Deposit will have their purchase orders effected and confirmed at the price set forth in the final prospectus, which also would be the price set forth in the preliminary prospectus and the round price estimated by the Hutton account executive in offering the units.

Applicants contend that another factor favoring the known $1,000 purchase price is that sales of units will be made in connection with Individual Retirement Accounts. Because such purchasers generally will be subject to an annual contribution limit of $2,000, Applicants submit that offering units at a fixed price of $1,000 ensures that an IRA participant's total annual contribution may be invested in units if he so elects. It is further submitted that participants in other types of tax-deferred retirement plans, such as Keogh Plans, may also be subject to contribition limitations which are exact multiples of $1,000.

Applicants submit that the only potential risk to investors from the one-day backward pricing is that they might purchase units at a price which is based on a net asset value in excess of that next determined following receipt of their purchase orders. In evaluating the effects of this limited potential risk, Applicants urge that it is important to distinguish the Trust from those longer term unit investment trusts which invest in fixed-income securities. The latter are sold on the basis of the anticipated yield to maturity. Due to the largely fixed nature of the portfolio, Applicants contend that the investor in such a trust is essentially locked into a particular yield for the duration of the investiment, and even a small change in the initial purchase price would alter the locked-in yield for the life of the investment. By contrast, the Trust will last approximately one year and will invest for capital appreciation in a diversified portfolio of equity securities. It is sold as a growth-oriented equity investment, so, Applicants state, investors will expect the type of daily market fluctuations normally associated with equity investments over the entire life of the investment. In light of the above considerations, Applicants submit that potential investors would strongly prefer the opportunity to purchase units on the Date of Deposit at a fixed price, particularly in light of the Sponsor's agreement that a forward price will be used if the public offering price determined as of the end of the Date of Deposit had declined by more than 2.50%.

Applicants further submit that the limited protection provided to Hutton by the proposed method of pricing is the minimum necessary to enable it to make the Trust available to the public, and that the allocation between Hutton and the Trust purchasers of the expenses and risks involved in forming the Trust and offering its units is fair and equitable and in the interests of unitholders. Purchasers of units on the Date of Deposit benefit in that, if the market rises, they can purchase units at a price based on a lower net asset value without any limit, while they are protected in the event of a market decline against paying a price which exceeds the forward price by more than 2.50%. While Hutton receives the benefits of protection against certain declines in the public offering price on the Date of Deposit, it is not protected against any decline on that date in excess of 2.50% of such price, and it is not protected in any amount against any decline in the net asset value with respect to units which remain unsold at the end of the first day of the offering, up until the time they are sold. Finally, Hutton must bear the market risk of any decline in the market value of the Underlying Securities between the time of purchase of the Underlying Securities and the close of business on the business fay proceding the Date of Deposit.

Moreover, Applicants assert that Hutton will bear an expense not normally borne by sponsors of unit trusts investing in fixed-income

securities and forego a source of profit typically realized by such sponsors. Sponsors of unit trusts investing in fixed-income securities normally buy the fixed-income securities for deposit in the portfolio at a price between the bid and asked prices, but deposit the securities in the trust at the asked price, thereby providing an immediate margin of profit. However, Hutton states that it will not receive that additional margin of profit, as the Underlying Securities will be deposited in the Trust at the value used in determining the Trust's net asset value, which is the last sale price (unless there has been no sale on that day). Applicants state that because the "last sale" price is net of brokerage commissions, Hutton will, in effect, be bearing the cost of brokerage commissions associated with assembling the portfolio of Underlying Securities. In addition, as stated in the Trust's prospectus, Hutton will bear any brokerage commissions incurred in disposing of Underlying Securities upon the termination of the Trust or during the existence of the Trust.

Applicants state that in order to estimate the volatility of the types of equity securities which will be deposited in the Trust and the potential impact on investors of the proposed method of pricing, they studied net changes in the prices of certain equity securities rated undervalued by Hutton's Directions valuation program in each of 12 preceding monthly evaluations. Applicants state that for each month, sample data were taken from an assumed portfolio consisting of the two issuers rated most undervalued in each of the 15 industry groups rated most undervalued.[1] Five business days' fluctuations were reviewed for each such assumed portfolio, so that net price changes on 60 business days were included in the sample. The average magnitude (plus or minus) of the daily net asset value change on the assumed portfolios for the 60 business days studied was 1.14%; the largest single daily decline was 2.35%; and the largest single daily increase was 4.60%. It is submitted that the likely impact on investors of the proposed method of pricing as indicated by the above data is nominal, and in any case the potential risk is limited to 2.50% of the public offering price. It is further submitted that the data demonstrate that any possibility of speculation from backward pricing on the Date of Deposit will be minimal. In order for a speculator to benefit from a purchase and immediate redemption, the net asset value increase would have to be in excess of 3.0% of the public offering price (*i.e.*, the amount of the sales charge). However, of the sixty business days studied, on only one day did the net asset value of the assumed portfolio increase by more than 3.0%. Moreover, because the redemption price is determined as of the close of business on the day the redemption request is received, the speculator would be required to tender the units for redemption prior to the time the price was fixed, thereby taking at least a temporary market risk. In order to eliminate any possibility of speculation on the part of the Sponsor, however, as a condition to the granting of the exemptive order, the Sponsor agrees that, during the initial public offering period for any series, it will not tender back to the Trustee for redemption any of its unsold units. Moreover, the Sponsor will not allow its registered representatives (or any dealer through which it might in the future distribute units) to convert an increase in the market into a speculative gain by tendering any units they might purchase to the Trustee for redemption during the initial public offering period.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 1, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of such person's interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or such person may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25201 Filed 9-13-82; 8:45 am]

BILLING CODE 8010-01-M

[1] As stated in its prospectus, the Underlying Securities of each series will consist generally of equity securities issued by the two most undervalued companies in each of the fifteen most undervalued industries, as determined in the most recent monthly Directions evaluation.

[Release No. 12646; 812-5276]

Paine Webber United States Government and Federal Agencies Trust, Appreciation Series I (and Subsequent Trusts) Paine, Webber, Jackson & Curtis Inc.; Filing of Application for an Order Pursuant to Section 45(a) of the Act Granting Confidential Treatment

September 8, 1982.

Notice is hereby given that Paine Webber United States Government and Federal Agencies Trust, Appreciation Series I ("Series I"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor, Paine, Webber, Jackson, and Curtis Incorporated ("Sponsor") (collectively "Applicants"), 140 Broadway, New York, NY 10005, have filed an application for an order pursuant to Section 45(a) of the Act, granting confidential treatment to profit and loss statements of the Sponsor filed with the Commission from time to time in connection with registration statements of Series I or of any subsequent series. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The order requested will apply to Series I and subsequent series sponsored by the Sponsor with the same characteristics as Series I (collectively the "Trusts"). Applicants state that the Trusts will be governed by a trust indenture and agreement for each trust (hereinafter called "Trust Agreement") under which the Sponsor will act as Depositor, United States Trust

Company, of New York will act as trustee ("Trustee") and Interactive Data Services Incorporated will act as evaluator ("Evaluator").

According to the application, the Trust Agreement for each Trust will contain standard terms and conditions of trust common to all the Trusts. Pursuant to the Trust Agreement, when the portfolio for the Trust has been acquired, the Sponsor will deposit with the Trustee notes, bonds, or other debt obligations issued or guaranteed by the United States of America or its agencies and instrumentalities thereof (the "Bonds"). Simultaneously with such deposit the Trustee will deliver to the Sponsor, for sale to the public, registered certificates for the requisite number of units, that will represent the entire ownership of that Trust at the date of deposit. The Bonds will not be pledged or be in any other way subjected to any debt at any time after the Bonds are deposited in the Trust. The Bonds will have fixed maturity dates and no conversion or equity features. The Sponsor will accumulate the Bonds for the purpose of deposit in Series I and will follow a similar procedure of accumulating the Bonds for each of the Trusts.

Applicants state that the portfolio of each Trust will consist of the Bonds, such bonds as may continue to be held from time to time in exchange or substitution for any of the Bonds upon certain refundings, accrued and undistributed interest and undistributed cash realized from the sale, redemption, maturity or other disposition of the Bonds, pursuant to the Trust Agreement. Applicants state that the Sponsor may, under the Trust Agreement, direct the Trustee to sell or liquidate any of the Bonds upon the happening of certain events including (i) default in the payment of principal or interest; (ii) institution of legal proceedings involving such Bonds; (iii) a breach of covenant or warranty that could adversely affect the payment of debt service on the Bonds; and (iv) default in the payment of principal or interest on any other outstanding obligations of the same issuer. Applicants represent that the proceeds from such dispositions will be distributed to the unitholders and will not be reinvested.

Applicants represent that each unit in a particular Trust will represent a fractional undivided interest in the principal amount of Bonds in the Trust. The numerator of the fractional interest represented by each unit will be 1 and the denominator equal to the number of units of the Trust then outstanding. Units of each Trust will be redeemable. In the event that any units shall be redeemed, the denominator of the fraction will be reduced and the fractional undivided interest represented by such unit increased. Units will remain outstanding until redeemed or until the termination of the Trust Agreement as provided therein. The Trust Agreement may be terminated (i) by the written consent of 100% of unitholders of the Trust, (ii) in the event that the last of the Bonds then currently in the portfolio of the Trust has matured or has been redeemed or sold upon direction of the Sponsor to the Trustee, and in addition, the Trust may be terminated, at the discretion of the Sponsor and the Trustee, if the value of the Trust shall become less than 10% of the par value of the Bonds initially deposited in the Portfolio.

Following the deposit of Bonds for each Trust by the Sponsor with the Trustee, and following the declaration of effectiveness of the registration statement of that Trust under the Securities Act of 1933 and clearance by the securities authorities of various States, the Sponsor will offer the units of that Trust to the public at the public offering price set forth in the Prospectus, plus accrued interest.

Applicant represents that while not obligated to do so, it is the Sponsor's present intention to maintain a market for the units of each of the Trusts and continuously to offer to purchase such units a the "Sponsor's Repurchase Price." During the initial offering period, the Sponsor's Repurchase Price will be based on the offering price of the Bonds; after the initial offering period it will be based on the bid prices of the Bonds. If the supply of units exceeds demand, or for other business reasons, the Sponsor may discontinue purchases of units at prices based on the offering prices of the Bonds. In such event the Sponsor may nontheless purchase units, as a service to unitholders, at a price based on the then-current redemption value of those units. In no event will the price offered by the Sponsor for repurchase of units be less than the redemption value. Upon completion of the initial public offering of units, the Sponsor, form time to time, for its own account, may offer units acquired by it in the over-the-counter market or otherwise, at a public offering price determined as of the close of business on each business day as of the evaluation time as set forth in the Trust Agreement. Such evaluation is effective for all sales made subsequent to the last preceding evaluation.

The Applicants request confidential treatment for profit and loss statements of the Sponsor pursuant to Section 45(a) of the Act which provides, in pertinent part, that information filed with the Commission "shall be made available to the public, unless and except insofar as the Commission * * * by order upon application finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors." Applicants assert that, for a variety of reasons, public disclosure of the Sponsor's profit and loss statement is neither necessary nor appropriate in the public interest or for the protection of investors. Investors in the Trusts are not offered an opportunity to acquire any interest whatsoever in the Sponsor. Apart from the Sponsor's minimal obligation under the Trust Agreement to recommend the disposition of underlying Bonds which are, or are likely to be, defaulted upon by the issuers thereof (which obligations may be performed by the Trustee or successor Sponsor if not performed by the Current Sponsor), the Sponsor functions solely as an underwriter of the Trusts. There is no legitimate interest on the part of the investors in the public disclosure of the profit and loss statements of the underwriters from whom the units are purchased. To the extent that the Sponsor's solvency may conceivably be relevant to the maintenance of the secondary market in the units of the Trusts, the sponsor's statement of financial condition which is filed with the Commission and various stock exchanges and is readily available to the public contains fully adequate information in this regard. There is adequate disclosure in the Prospectus of the Sponsor's right to terminate secondary market activities in a particular Trust. Unitholders are nevertheless fully protected by their right under the Trust Agreement to redeem their units upon presentation of such units properly endorsed to the Trustee. The unitholders receive the redemption value of the Units computed on the underlying assets of the particular Trust.

Applicants assert that the financial information of the Sponsor is not material from the standpoint of investors. The soundness of the investors' interest in the Trust is solely a function of the fiscal condition of the issuers whose Bonds are contained in the Trust's portfolio. In short, Applicants argue, the financial operations of the Sponsor will in no way enhance or diminish the prospect for an orderly payment of the underlying Bonds.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the applicaton

accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25197 Filed 9-13-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12643; 812-5262]

Shearson Daily Tax-Free Dividend, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

September 8, 1982.

Notice is hereby given that Shearson Daily Tax-Free Dividend, Inc. ("Applicant"), 2 World Trade Center, New York, New York 10048, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on August 3, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is organized as a business corporation trust under the laws of the State of Maryland. Applicant states that it is a money market fund that seeks to maximize current income to the extent consistent with preservation of capital and the maintenance of liquidity by investing primarily, but not exclusively, in securities commonly termed "municipal obligations," the income from which is exempt from federal income taxation. The municipal obligations purchased by Applicant will be of high quality and will have short-term maturities. Specific municipal obligations in which the Fund will invest include: (1) Municipal bonds with remaining maturities of one year or less that are rated Aaa or Aa at the date of purchase by Moody's Investors Service, Inc. ("Moody's") or AAA or AA by Standard and Poor's Corporation ("S&P") or, if not rated, are of comparable quality as determined by the directors of the Applicant (the "directors"); (2) municipal commercial paper that is rated Prime-1 or Prime-2 by Moody's or A-1+, A-1 or A-2 by S&P at the date of purchase or, if not rated, is of comparable quality as determined by the directors; (3) municipal notes with remaining maturities of one year or less that are rated MIG-1 or MIG-2 at the date of purchase by Moody's or, if not rated, are of comparable quality as determined by the directors.

Within the category of municipal notes in which Applicant will invest are variable rate demand notes. The variable rate demand notes in which Applicant may invest will be payable on not more than seven calendar days' notice. Interest rates of the notes will be adjustable at intervals of up to one year. Each note purchased will meet the quality criteria set out above for municipal notes. For purposes of determining whether a variable rate demand note matures within one year from the date of its acquisition, the maturity of the note will be deemed to be the longer of (1) the notice period required before Applicant is entitled to prepayment under the note or (2) the period remaining until the note's next interest rate adjustment. The maturity of a variable rate demand note will be determined in the same manner for purposes of computing Applicant's dollar-weighted average portfolio maturity.

Applicant represents that its board of directors will reevaluate, at least quarterly, any variable rate instruments it holds to ensure that such instruments are of high quality. In the event that proposed Rule 2a-7, as adopted, mandates a different reevaluation period, Applicant agrees to conform to such period.

Applicant states that generally in periods of normal market conditions it will attempt to invest 100%, and will at a minimum invest 80%, of its total assets in municipal obligations. Applicant represents that because its purpose is to provide income exempt from federal income taxes, it will invest in taxable obligations only if and when the directors believe it would be in the best interests of Applicant's shareholders to do so. Situations in which Applicant may invest in taxable securities include: (1) Pending investment of proceeds of sales of Applicant's shares or of portfolio securities, (2) pending settlement of purchases of portfolio securities, or (3) when Applicant is attempting to maintain liquidity for the purpose of meeting anticipated redemptions. In general, no more than 20% of the Fund's total assets will be invested in taxable securities at any one time. Applicant may temporarily invest more than 20% in taxable securities to maintain a "defensive" posture when, in the opinion of Applicant's investment adviser, it is advisable to do so because of adverse market conditions affecting the market for municipal obligations.

Applicant states that the kinds of taxable securities in which Applicant may invest are limited to the following short term, fixed-income securities: (1) Obligations of the United States Government, its agencies or instrumentalities; (2) commercial paper rated Prime-1 by Moody's or A-1+ or A-1 by S&P; (3) certificates of deposit of domestic banks with assets of $1 billion or more; and (4) repurchase agreements with respect to any securities that Applicant is permitted to own.

Applicant states that it may purchase securities together with the right to resell them to the seller at an agreed upon price or yield within a specified period prior to the maturity date of such securities. This right to resell is commonly known as a "stand-by commitment." In the absence of an order issued by the Commission or an interpretation of the staff of the Commission that the Act does not prohibit Applicant from acquiring stand-by commitments from broker-dealers, Applicant will enter into stand-by commitment arrangements only with commercial banks. The duration of the stand-by commitments to be acquired by Applicant will not be a factor in determining the weighted average maturity of Applicant's portfolio securities.

Applicant states that it may purchase securities on a "when-issued" basis and may enter into repurchase agreements with respect to its portfolio securities. Applicant will not invest in a repurchase agreement maturing in more than seven days if any such investment together with illiquid securities held by Applicant exceed 10% of Applicant's total assets.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company nor principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rules 2a-4 for a money market fund to value its portfolio instruments on an amortized cost basis. (Investment Company Act Release No. 12206, February 1, 1982; Invesment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to use the amortized cost method to value its portfolio securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the requested exemption, Applicant states its belief that (i) the amortized cost method of valuation will permit the Applicant to provide the stability of principal and steady flow of investment income demanded by investors; and (ii) given the nature of Applicant's policies and expected operations, only a relatively negligible discrepancy will exist between the market value and the amortized cost value of the Applicant's portfolio securities. Applicant further states that its directors have determined in good faith, in light of the Fund's proposed characteristics and the needs of investors, that, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable and will reflect the fair value of the Fund's securities. Finally, Applicant represents that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant expressly agrees that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the Applicant's operations and delegating special responsibilities involving management to the Applicant's investment adviser, the Applicant's directors undertake—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the exent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the directors will promptly consider what action, if any, should be initiated; and

(c) Where the directors believe the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, the board shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the Appliant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. The Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the

[1] To fulfill this condition, the Applicant states that the Fund intends to use actual quotations or estimates of market value reflecting current market conditons chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

minutes of meetings of the board of directors. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the directors determine present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. The Applicant will include as an attachment to each Form N-1Q it files, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 4, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regualtions promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25200 Filed 9-13-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV—Advisory Council; Public Meeting

The Small Business Administration, Region IV Advisory Council, located in the geographical area of Birmingham, Alabama, will hold a public meeting at 9:30 a.m., on Friday, October 1, 1982, Holiday Inn-Gulf Shores, Highway 182 East Gulf Shores Boulevard, Gulf Shores, Alabama 36542, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Room 202, Birmingham, Alabama, (205) 254-1341.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 9, 1982.

[FR Doc. 82-25171 Filed 9-13-82; 8:45 am]

BILLING CODE 8025-01-M

Region V—Advisory Council; Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Chicago, will hold a public meeting at 9:30 a.m., on Wednesday, September 29, 1982, at the Dirksen Federal Building, 219 South Dearborn Street, Room 437, Chicago, Illinois, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John L. Smith, District Director, U.S. Small Business Administration, 219 S. Dearborn Street, Room 437, Chicago, Illinois 60604—(312) 353-4508.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 9, 1982.

[FR Doc. 82-25170 Filed 9-13-82; 8:45 am]

BILLING CODE 8025-01-M

Region V—Advisory Council; Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Columbus, will hold a public meeting at 9:30 a.m., on Friday, September 24, 1982, at the U.S. Courthouse, 85 Marconi Boulevard, Conference Room 426 (fourth floor), Columbus, Ohio, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Frank D. Ray, District Director, U.S. Small Business Administration, 85 Marconi Boulevard, fifth floor, Columbus, Ohio 43215—(614) 469-7310.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 9, 1982.

[FR Doc. 82-25169 Filed 9-13-82; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The Small Business Administration, Region VI Advisory Council, located in the geographical area of Oklahoma, will hold a public meeting at 1:00 p.m., on Tuesday, October 5, 1982. The meeting will be held in Room 911 of the Alfred P. Murrah Federal Building located at 200 NW. 5th Street, Oklahoma City, Oklahoma, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert K. Ball, District Director, U.S. Small Business Administration, 200 NW. 5th Street, Suite 670, Federal Building, Oklahoma City, Oklahoma 73102—FTS 736-5237.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 9, 1982.

[FR Doc. 82-25168 Filed 9-13-82; 8:45 am]

BILLING CODE 8025-01-M

Region VIII—Advisory Council Meeting

The Small Business Administration, Region VIII Advisory Council, located in the geographical area of Helena, Montana will hold a public meeting at 9:30 a.m., on Friday October 1, 1982, at the Federal Office Building, 301 South Park, Room 289, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, Acting District Director, U.S. Small Business Administration, Federal Office Building,

301 South Park, Drawer 10054, Helena, Montana 59626—(406) 449-5381.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 9, 1982.

[FR Doc. 82-25167 Filed 9-13-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of Secretary

[Public Notice 822]

Assistance to Tanzania; Determination

Pursuant to the authority vested in me by section 620(q) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163, and Department of State Delegation of Authority No. 145, I hereby determine that the furnishing of assistance under the Act to Tanzania is in the national interest of the United States.

This determination shall be reported to the Congress as required by law.

This determination shall be published in the **Federal Register.**

Dated: August 31, 1982.

Walter J. Stoessel, Jr.,

Deputy Secretary of State.

[FR Doc. 82-25189 Filed 9-13-82; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

Customs Service

"The Bayer Company"; Application for Recordation of Trade Name

Application has been filed pursuant to § 133.21, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "The Bayer Company," used by Sterling Drug Inc., a corporation organized under the laws of the State of Delaware, 90 Park Avenue, New York, New York 10016.

The application states that the trade name is used in connection with pharmaceuticals manufactured in Canada, West Indies and the United States. Sterling Drug Ltd., of Aurora, Canada, is authorized to use the trade name. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Entry, Licensing and Restricted Merchandise Branch, Washington, D.C. 20229, in time to be received no later than 60 days from the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. (202-566-5765).

Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

Dated: September 9, 1982.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 82-25182 Filed 9-13-82; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 7]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issed to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $300,000 has been established for the company.

Name of Company: Voyager Guaranty Insurance Company

Business Address: P.O. Box 2918, Jacksonville, Florida 32203

State of Incorporation: Florida.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28884 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 1, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-25172 Filed 9-13-82; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Performance Review Board Members

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of senior executive service performance review boards.

DATE: Performance Review Boards effective August 27, 1982.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:P:X, 1111 Constitution Avenue, NW., Room 3213, Washington, DC 20224, Telephone No. (202) 566-4633, (not a toll free number)

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Assistant Commissioners and Regional Commissioners are as follows: James I. Owens, Chairman, Deputy Commissioner; Cora P. Beebe, Assistant Secretary (Administration), Department of the Treasury; Joel Gerber, Deputy Chief Counsel.

The members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Inspection are as follows: James I. Owens, Chairman, Deputy Commissioner; Paul K. Trause, Inspector General, Department of the Treasury; Joel Gerber, Deputy Chief Counsel.

The members of the Internal Revenue Service's Senior Executive Service Performance Review Board for all other Senior Executive Service employees are: James I. Owens, Chairman, Deputy Commissioner; M. Eddie Heironimus, Assistant Commissioner, Returns and Information Processing; D. James Lantonio, Assistant Commissioner, Human Resources; Roger L. Plate, Regional Commissioner, Midwest Region; Richard C. Voskuil, Regional Commissioner, Southwest Region; Philip E. Coates, Regional Commissioner, Central Region (Alternate); Larry G. Westfall, Assistant Commissioner, Collection (Alternate).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal**

Register for Wednesday, November 8, 1978 (43FR52122).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 82-25234 Filed 9-13-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Dept. Cir. Public Debt Series—No. 23-82]

Treasury Notes of September 30, 1984; Series W-1984

September 9, 1982

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of September 30, 1984, Series W-1984 (CUSIP No. 912827 NQ 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular.

2. Description of Securities

2.1. The securities will be dated September 30, 1982, and will bear interest from that date, payable on a semiannual basis on March 31, 1983, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, September 15, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 14, 1982, and received no later than Thursday, September 30, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each succcessful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting non-competitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Thursday, September 30, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, September 28, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Pubic Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-25329 Filed 9-13-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 178
Tuesday, September 14, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2
Federal Reserve System	3
Inter-American Foundation	4
National Commission on Student Financial Assistance	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, September 14, 1982.

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82-6-FOIA-28-ME, concerning a request for records in a closed charge file compiled under the Age Act.
3. Freedom of Information Act Appeal No. 82-7-FOIA-42-MM, concerning a request for access to Title VII charge of discrimination case files where the requestor is not a party to the charge.
4. Briefing to the Commission on Field Performance.
5. A report on Commission operations by the Acting Executive Director.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

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 Officer, Executive Secretariat at (202) 634-6748.

This notice issued September 7, 1982.

[S-1303-82 Filed 9-10-82; 10:27 am]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN BANK BOARD (Billing No. 6720-01).

TIME AND DATE: 10 a.m., Friday, September 17, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED:

Modification of Condition—Tracy Savings and Loan Association (In Organization), Tracy, California

Bank Membership and Insurance of Accounts—Cabrillo Savings and Loan Association (Stock), San Jose, California

No. 60, September 10, 1982.

[S-1306-82 Filed 9-10-82; 2:07 pm]

BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM: (Board of Governors).

TIME AND DATE: 10 a.m., Monday, September 20, 1982.

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 items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: September 10, 1982.

James McAfee,
Associate Secretary of the Board.

[S-1307-82 Filed 9-10-82; 3:33 pm]

BILLING CODE 6210-01-M

4

INTER-AMERICAN FOUNDATION:

TIME AND DATE: September 20, 1982, 6:00-9:00 p.m.
September 21, 1982, 9:00 a.m.-12:00 p.m.

PLACE: 1515 Wilson Boulevard, Fifth Floor Rosslyn, Virginia 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

September 20, 1982

1. Chairman's Report.
2. President's Report.
3. Minutes of June 17, 1982 Board meeting.
4. Budget Request for Fiscal Year 1984.

September 21, 1982

1. GAO Report on the Inter-American Foundation.
2. "In Support of Women: Ten Years of Funding by the Inter-American Foundation.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr., (703) 841-3812.

S-1304-82 Filed 9-10-82; 11:45 am]

BILLING CODE 7025-01-M

5

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: Friday, September 24, 1982.

TIME AND PLACE: 8 a.m. to 11:00 a.m. at Lincoln University in Jefferson City, Missouri. 1:00 p.m. to 4:00 p.m. at Central Missouri State University in Warrensburg, Missouri.

PURPOSE: To hold a hearing on the National Commission on Student Financial Assistance's study of the Insurance Premium charged to borrowers under the Guaranteed Student Loan Program.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer, (202) 472-9023.

This hearing was called by the Insurance Premium Subcommittee Chairman, Congressman Wendell Bailey.

Submitted the 10th day of September, 1982.

Richard T. Jerue,
Chief Executive Officer.

[S-1305-82 Filed 9-10-82; 1:13 pm]

BILLING CODE 6820-BC-M

Reader Aids

Federal Register

Vol. 47, No. 178

Tuesday, September 14, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

38493-38672.....1
38673-38860.....2
38861-39126.....3
39127-39472.....7
39473-39654.....8
39655-39786.....9
39787-40140.....10
40141-40396.....13
40397-40522.....14

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
4960.....39787
4961.....39789
4962.....39791
4963.....39793

Executive Orders:
October 10, 1906 (Revoked by PLO 6332).....39683
April 19, 1912 (Amended by PLO 6315).....38891
April 19, 1912 (Revoked in part by PLO 6321).....39492
June 27, 1912 (Revoked in part by PLO 6327).....39495
4231 (Revoked by PLO 6325).....39494
4287 (Revoked by PLO 6319).....39492
5581 (Revoked by PLO 6336).....39826
5623 (Revoked by PLO 6320).....39492
6696 (Revoked by PLO 6320).....39492
6762 (Revoked by PLO 6333).....39824
6817 (Revoked by PLO 6318).....39491
7705 (Revoked by PLO 6316).....39490
12148 (Amended by 12381).....39795
12381.....39795

Administrative Orders:

Presidential Determinations:
No. 82-19 of August 30, 1982.....39655

Memorandums:
September 8, 1982.....39797

5 CFR

Proposed Rules:
1320.....39515

7 CFR

54.....40141
272.....40397
273.....40397
301.....38861
910.....38862, 39799
932.....39657
946.....38493
967.....38494
1004.....38495
1076.....38863
1139.....38496
1701.....38864
1901.....39127
1904.....40398
1944.....40398
2700.....39128
2710.....39128

Proposed Rules:
29.....39688
180.....40443
272.....40443
273.....40443
278.....38905, 39832
621.....39833
910.....39836
932.....39530
989.....40447
1079.....40181, 40182
1945.....39532

8 CFR

238.....38864
332c.....38673

9 CFR

92.....38673
94.....38497

Proposed Rules:
74.....38704

10 CFR

10.....38675
11.....38675
25.....38675
35.....40149
95.....38675
460.....38498
461.....38500

Proposed Rules:
50.....39836

12 CFR

201.....39129
217.....39657
309.....39130
329.....39473
545.....38865
561.....39661
563.....39661
618.....38865

Proposed Rules:
226.....38548
541.....39692
543.....39836
545.....39836
546.....39836
552.....39836
561.....39692
563.....39692, 39836
584.....39846

14 CFR

39.....38683, 39133-39136, 39664, 40150

71.....38684-38687, 39137-39141, 39669-39673, 40151-40154
73.....39142-39145, 40154, 40155
75.....38687
97.....39145
103.....38770
250.....39474
324.....39474
375.....39474
1201.....38867
Proposed Rules:
Ch. I.....38705
39.....39189, 40182
71.....38706, 39190
253.....40185

15 CFR
369.....38501
929.....39474
Proposed Rules:
922.....39191

16 CFR
305.....39674
460.....40156
803.....40159
1700.....40407
Proposed Rules:
13.....39695

17 CFR
200.....38505
211.....38868
229.....39799
230.....39799
231.....39809
239.....39986
249.....39986
251.....39810
274.....39986
279.....39986

18 CFR
4.....38506
141.....38869
157.....38871
271.....38877-38881
274.....38882
282.....38513
Proposed Rules:
32.....38851
33.....39851
34.....39851
35.....39851
45.....39851
271.....38906, 38907, 39862-39865
292.....39851
375.....39851
381.....39851

19 CFR
10.....40160
18.....39478
101.....40163
113.....40163
Proposed Rules:
134.....39666

21 CFR
14.....38883
74.....38883
81.....38883
82.....38883
177.....38884
178.....40409
193.....39478
202.....39147
314.....39155
433.....39155
510.....39155, 40409
520.....39811, 39812
540.....39813
558.....39813, 39814
561.....39479
606.....39816
610.....39816
640.....39816
809.....39155
868.....40410
880.....39816
Proposed Rules:
148.....38909, 38912
158.....38915
182.....38917, 40448
184.....38917, 39199, 40448
186.....39199
330.....39470
333.....38917, 39406, 39464
347.....39436
348.....39412
358.....39906, 39102, 39108, 39120

22 CFR
Proposed Rules:
11.....38548

24 CFR
201.....39480
203.....40410
804.....39480
805.....39480
841.....39480

25 CFR
23.....39978
168.....39816
Proposed Rules:
271.....40326
272.....40338
273.....40340
274.....40348
275.....40352
276.....40353
277.....40356

26 CFR
1.....38514, 39674
3.....39674
5c.....38688
30.....38515
31.....38515
601.....39675
Proposed Rules:
1.....38918
31.....38552

27 CFR
9.....38516, 38519
19.....38521
240.....38521
245.....38521
270.....38521
285.....38521
Proposed Rules:
4.....40451
5.....38553
9.....38553

28 CFR
2.....40410
60.....39161
541.....39676

29 CFR
1601.....38885
1910.....39161, 40410
1952.....39164

30 CFR
840.....39678
842.....39678
843.....39678
845.....39678
915.....39482
935.....38886
948.....39821
Proposed Rules:
700.....39201
701.....39201
715.....39201
717.....39201
736.....39201
760.....39201
762.....39201
769.....39201
770.....39201
771.....39201
772.....39201
773.....39201
775.....39201
776.....39201
778.....39201
779.....39201
780.....39201
782.....39201
783.....39201
784.....39201
785.....39201
786.....39201
787.....39201
788.....39201
815.....39201
816.....39201
817.....39201
818.....39201
819.....39201
822.....39201
823.....39201
824.....39201
826.....39201
827.....39201
843.....39201
850.....39201
886.....38556
913.....38555
917.....39536
931.....38706
934.....39868
936.....38556
946.....39696

31 CFR
500 (See Memorandum of September 8, 1982).....39797
505 (See Memorandum of September 8, 1982).....39797
505 (See Memorandum of September 8, 1982).....39797
520 (See Memorandum of September 8, 1982).....39797

32 CFR
724.....39166
865.....40411
890.....38524
989.....38524
Proposed Rules
292a.....38921

33 CFR
147.....39678
320.....38530
321.....38530
322.....38530
323.....38530
324.....38530
325.....38530
326.....38530
327.....38530
328.....38530
329.....38530
330.....38530
Proposed Rules:
161.....40185

34 CFR
Proposed Rules
300.....39652

37 CFR
1.....40134
3.....40134
4.....40134
2.....38693
203.....39483
204.....39483

40 CFR
52.....38531, 38532, 38886, 38887, 39167, 39484
61.....39168, 39485
65.....39680
81.....38888, 38890, 39822, 40165
180.....38533, 38534, 39488-39490, 40166
410.....38810
716.....38780
763.....38535
Proposed Rules:
52.....39202, 39203, 39696, 40185
55.....38557
60.....38832, 39204, 39205
65.....38557
81.....38922
123.....38922
162.....39538
180.....39541, 39542
716.....38800

41 CFR
109-35.....39823

42 CFR
421.....38535

43 CFR

1820 40412
2800 ..... 38804, 38806
5440 38695
5450 38695
5460 38695

Proposed Rules:

3100 38923
3110 38923
3120 38923
3130 38923

Public Land Orders:

4873 (Revoked by PLO 6323) 39493
5150 (Amended by PLO 6329) 39495
5173 (Amended by PLO 6329) 39495
5178 (Amended by PLO 6329) 39495
5179 (Amended by PLO 6329) 39495
5180 (Amended by PLO 6329) 39495
5184 (Amended by PLO 6329) 39495
6229 (Corrected by PLO 6326) 39495
6315 38891
6316 39490
6317 39491
6318 39491
6319 39492
6320 39492
6321 39492
6322 39493
6323 39493
6324 39494
6325 39494
6326 39495
6327 39595
6328 39495
6329 39495
6330 39682
6331 39683
6332 39683
6333 39824
6334 39825
6335 39825
6336 39826
6337 39827

44 CFR

64 ..... 38891, 39499
65 ..... 38893, 39179
67 38894
70 38894-38901

Proposed Rules:

67 38923-38926
350 39697

46 CFR

4 39683
26 39683
35 39683
78 39683
97 39683
109 39683
167 39683
185 39683
196 39683
507 40413
531 38685
536 39685

Proposed Rules:

Ch. I 38707
32 38707

47 CFR

Ch. I 40413
15 40166
22 39685
68 39686
73 ..... 38902, 38903, 39185, 40168-40173, 40428-40436
74 40170-40175
90 39502
97 40178

Proposed Rules:

1 38927
2 38561
34 38927
35 38927
43 38927
73 ..... 38930-38937, 39207, 39697, 40451-40459
74 38561
76 ..... 39207, 39212
81 40187
83 ..... 40187, 40189
90 40194
94 38561

49 CFR

1 39687
179 38697
213 39398
571 38698
1039 38904
1057 39185
1090 38904
1137 39687
1300 38904

Proposed Rules:

173 38708
178 38708
391 39698
1102 38946
1127 39700

50 CFR

17 ..... 38540, 39827
32 40298
258 40437
285 40179
611 ..... 38543, 39186, 40438
652 38544
661 38545
671 40180
672 40441
674 39513

Proposed Rules:

17 40196
23 39219
611 38947
645 38948
654 39221

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing September 1, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 6530/Pub. L. 97-243 To designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes. (Aug. 26, 1982; 96 Stat. 301) Price: $2.25.

H.R. 2160/Pub. L. 97-244 Potato Research and Promotion Act Amendments of 1982. (Aug. 26, 1982; 96 Stat. 310) Price: $1.75.

H.R. 6033/Pub. L. 97-245 Relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States. (Aug. 26, 1982; 96 Stat. 313) Price: $1.75.

H.R. 4647/Pub. L. 97-246 To award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour. (Aug. 26, 1982; 96 Stat. 315) Price: $1.75.

H.R. 6260/Pub. L. 97-247 To authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes. (Aug. 27, 1982; 96 Stat. 317) Price: $2.00.

H.R. 4961/Pub. L. 97-248 Tax Equity and Fiscal Responsibility Act of 1982. (Sep. 3, 1982; 96 Stat. 324) Price: $7.50.

H.R. 6732/Pub. L. 97-249 To amend the International Safe Container Act. (Sep. 8, 1982; 96 Stat. 708) Price: $1.75.

S. 1119/Pub. L. 97-250 To correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes. (Sep. 8, 1982; 96 Stat. 709) Price: $1.75.

H.R. 6350/Pub. L. 97-251 Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982. (Sep. 8, 1982; 96 Stat. 711) Price: $2.00.

S. 2248/Pub. L. 97-252 Department of Defense Authorization Act, 1983. (Sep. 8, 1982; 96 Stat. 718) Price: $4.25.

H.R. 6955/Pub. L. 97-253 Omnibus Budget Reconciliation Act of 1982. (Sep. 8, 1982; 96 Stat. 763) Price: $4.25.

H.R. 6409/Pub. L. 97-254 To provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes. (Sep. 8, 1982; 96 Stat. 808) Price: $2.00.

H.R. 1526/Pub. L. 97-255 Federal Manager's Financial Integrity Act of 1982. (Sep. 8, 1982; 96 Stat. 814) Price: $1.75.

H.R. 3345/Pub. L. 97-256 To make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act. (Sep. 8, 1982; 96 Stat. 816) Price: $1.75.

H.R. 6863/Pub. L. 97-257 Passed over veto—September 10, 1982. (Vetoed—message dated August 28, 1982, Vol. 18, No. 35 WCPD) Supplemental Appropriations Act, 1982. (Sep. 10, 1982; 96 Stat. 818) Price: $4.25.