9-15-83
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federal register

Thursday
September 15, 1983

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Administrative Practice and Procedure
Federal Trade Commission
Interstate Commerce Commission

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Aircraft
Customs Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Bridges
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Flood Insurance
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Income Taxes
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Selected Subjects

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 317]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 16–September 22, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Adminstrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on September 13, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports that the demand for Valencia oranges continues to improve.

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

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.617 is added as follows:

§ 908.617 Valencia Orange Regulation 317.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 16, 1983 through September 22, 1983, are established as follows:

(1) District 1: 470,000 cartons;

(2) District 2: 530,000 cartons;

(3) District 3: Unlimited cartons.

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

Dated: September 14, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-25393 Filed 9-14-83; 11:50 am]

BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This suspension action relaxes the limit on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the Iowa Federal milk marketing order. A cooperative association that operates a plant regulated by the order requested this action to prevent uneconomic movements of milk. The suspension is effective for the months of September, October and November 1983.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 16, 1983; published August 22, 1983 (48 FR 38002).

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures on the

timely basis necessary to make the suspension effective for the month of September 1983. The initial request for this action was received on August 11, 1983. A notice of proposed suspension was issued on August 16, 1983, inviting interested parties to comment on the proposed action by August 29, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 38002) concerning a proposed suspension of certain provisions of the order for the months of September, October, and November 1983. The public was afforded the opportunity to comment on the proposal by submitting written comments. One comment, in addition to the original request, was received in favor of the proposed suspension and none were received in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that for each of the months of September, October, and November 1983, the following provisions of the order do not tend to effectuate the declared policy of the Act:

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

Statement of Consideration

This action makes inoperative for September, October, and November 1983 certain provisions allowing up to 50 percent of the producer milk of a cooperative association or other handlers to be diverted from farms directly to nonpool manufacturing plants. The present order provides that a cooperative association may divert up to 50 percent of its total member milk delivered to all pool plants or diverted from them during the months of September through November and up to 70 percent all other months. Similarly, the operator of a pool plant may divert during the months of September through November up to 50 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) and up to 70 percent during all other months. The suspension would increase the diversion allowance for each of the months of September, October, and November 1983 from 50 percent to 70 percent for cooperative associations and operators of pool plants.

Farmers Butter and Diary Cooperative, an association of producers, operates a plant regulated by the Iowa milk order. The cooperative requested that the 50-percent diversion limitation be suspended for September, October and November 1983. The remaining diversion provisions in the order would permit up to 70 percent of the producer milk receipts to be moved directly from farms to nonpool manufacturing plants and still be priced under the order.

The cooperative said that large supplies of milk in relation to Class I sales in the coming months will require more diversions of milk from farms to manufacturing plants than can be accommodated by the order without the proposed suspension. The cooperative said that the suspension of the 50-percent diversion limitation and the retention of the 70-percent diversion limitation would allow for a more efficient means of handling the reserve supplies of milk in the Iowa market.

Interested parties were given an opportunity to submit written data, views and arguments concerning the proposed suspension. The only comment received was from Farmers Butter and Diary Cooperative. It said the proposed action would facilitate the orderly and economic disposition to nonpool manufacturing plants of an increasing supply of milk in excess of fluid requirements.

Reserve milk supplies within a marketing order normally decline during the fall months. However, current marketing information indicates that this year the reserve milk supplies for the Iowa market are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk. Data for the first six months of 1983 show that producer milk receipts were more than 2 percent greater than for the same months last year while pounds of pooled Class I milk were down more than 1 percent from a year ago. The quantity of producer milk needed at pool plants for Class I use during this September, October and November is expected to be less than it was one year ago and a greater quantity of milk will have to be diverted to nonpool manufacturing plants. Under these marketing conditions, a suspension of the 50-percent limitation on diverted milk would be appropriate so that producer receipts that are not needed for fluid use may be moved directly from farms to manufacturing plants and still be priced under the order. An increase in the diversion allowance from 50 percent to 70 percent for each of the months of September, October and November 1983 would tend to prevent the uneconomic handling and movement of reserve milk supplies merely for pooling purposes.

The purposes of the suspensions are to insure that those producers who have been regularly supplying the Iowa market continue to share in the higher-valued fluid sales of the regulated market and to promote the efficient and orderly marketing of milk in the Iowa market. It is concluded that the supply-demand conditions in the market warrant a suspension of the 50-percent diversion limitation for the months of September, October and November 1983.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area. Otherwise, uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the Iowa market;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this suspension order effective upon publication of the document in the **Federal Register.**

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

PART 1079—[AMENDED]

It is therefore ordered, That the aforesaid provisions in § 1079.13 of the

Iowa order are hereby suspended for the months of September, October and November 1983.

Effective date: September 15, 1983.

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

Signed at Washington, D.C. on September 9, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-25147 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

7 CFR Part 2610

Organization, Functions, and Delegations of Authority

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulation relating to organization, functions, and delegations of authority. The amendments are necessary to reflect a reorganization of the Office of Inspector General and the increased law enforcement authorities granted to the Department of Agriculture and the Inspector General by the Agriculture and Food Act of 1981, Pub. L. 97-98, 7 U.S.C. 2270.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: L. L. Free, Assistant Inspector General, Administration, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-6915).

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

List of Subjects in 7 CFR Part 2610

Authority delegations (Government agencies), Organization and functions (Government agencies).

Accordingly, Part 2610 is revised as follows:

PART 2610—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Sec.
2610.1 General statement.
2610.2 Headquarters organization.
2610.3 Regional organization.
2610.4 Agency request for service.
2610.5 Other request for service.
2610.6 Delegations of authority.

Authority: 5 U.S.C. 301 and 552, Pub. L. 95-452, 5 U.S.C. app., and Pub. L. 97-98, 7 U.S.C. 2270.

§ 2610.1 General statement.

(a) The Inspector General Act of 1978, Pub. L. 95-452, 5 U.S.C. app. established an Office of Inspector General (OIG) in the U.S. Department of Agriculture (USDA) and transferred to it the functions, powers and duties of offices referred to in the Department as the "Office of Investigation" and the "Office of Audit," units already assigned to an OIG created by Secretary's Memorandums 1915 and 1927, dated March 23, 1977 and October 5, 1977 respectively.

(b) Under the Act, OIG is established as an independent unit under the general supervision of the Secretary. The mission of OIG is to conduct audits and investigations of USDA programs and operations to determine efficiency and effectiveness and to detect fraud and abuse in the administration of the programs and operations. Other functions include protection of the Secretary, and programs related to employee and facilities security.

(c) The Secretary has made the following delegations of authority to the Inspector General (IG) (7 CFR 2.33):

(1) Advise the Secretary and General Officers in the planning, development, and execution of Department policies and programs.

(2) Provide for physical protection of the Secretary.

(3) Promulgate departmental policies, standards, techniques, and procedures, and represent the Department in maintaining the security of physical facilities, self protection, and warden systems.

(4) In addition to the above delegations of authority, the IG, under the general supervision of the Secretary, has specific duties, responsibilities, and authorities pursuant to the Act, to:

(i) Conduct and supervise audits and investigations relating to programs and operations of the Department.

(ii) Provide leadership, coordination and policy recommendations to promote economy, efficiency and effectiveness and to prevent and detect fraud and abuse in the administration of the Department's programs and operations.

(iii) Keep the Secretary and the Congress fully and currently informed about problems and deficiencies and the necessity for and progress of corrective actions in the administration of the Department's programs and operations.

(iv) Make such investigations and reports relating to the administration of programs and operations of the Department as are in the judgment of the IG, necessary or desirable.

(v) Review existing and proposed legislation and regulations and make recommendations to the Secretary and the Congress on the impact such laws or regulations will have on the economy and efficiency of program administration or in the prevention and detection of fraud and abuse in the programs and operations of the Department.

(vi) Have access to all records, reports, audits, reviews documents, papers, recommendations or other material available to the Department which relate to programs and operations for which the IG has responsibility.

(vii) Report expeditiously to the Attorney General any matter where there are reasonable grounds to believe there has been a violation of Federal criminal law.

(viii) Issue subpoenas to other than Federal agencies for the production of information, documents, reports, answers, records, accounts, papers and other data and documentary evidence necessary in the performance of functions assigned by the Act.

(ix) Receive and investigate complaints or information from any department employees concerning possible violations of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority, or substantial and specific dangers to the public health and safety.

(x) Select, appoint, and employ necessary officers and employees in OIG in accordance with laws and regulations governing the civil service including an Assistant Inspector General for Auditing (AIG/A) and an Assistant Inspector General for Investigations (AIG/I).

(xi) Obtain services as authorized by Section 3109 of Title 5, United States Code.

(xii) Enter into contracts and other arrangements for audits, studies, analyses and other services with public agencies and private persons and make such payments as may be necessary to carry out the provisions of the Act to the extent and in such amounts as may be provided in an appropriation act.

(d) The Inspector General, under the Agriculture and Food Act of 1981, Pub.

L. 97-98, 7 U.S.C. 2270, and pursuant to rules issued by the Secretary in 7 CFR Part 1a has the authority to:

(1) Designate any employee of the Office of Inspector General to be authorized, when engaged in an investigation of alleged or suspected felony violations of statutes administered by the Secretary of Agriculture or any agency of the Department, and is engaged in the performance of official duties under the authority provided in the Act to:

(ii) Make an arrest without a warrant upon probable cause to believe that such violation is being committed;

(ii) Execute a warrant for arrest, for search of premises, or the seizure of evidence when issued under authority of the United States upon probable cause to believe that such a violation has been committed; and

(iii) Carry a firearm.

(2) Issue directives and take the actions prescribed by the Secretary's rules.

§ 2610.2 Headquarters organization.

(a) The IG has a Headquarters Office in Washington D.C. and Regional Offices throughout the nation. The Headquarters Office consists of the immediate office of the IG, two staff units and three operational units. The immediate office of the IG includes: (1) The Deputy Inspector General, whose assigned functions are to assist in directing and coordinating operational and staff functions when the IG is absent, (2) an Executive Assistant, (3) the Equal Employment Opportunity Coordinator and (4) the Counsel to the IG.

(b) *Staff units.* (1) The Assistant Inspector General for Administration (AIG/AD) formulates OIG policies and procedures, develops, administers and directs comprehensive programs for the management, budget, financial, personnel, systems improvement and information activities and operations of OIG, and is responsible for OIG automatic data processing (ADP) and OIG information management systems. The staff maintains OIG's directives system, Departmental Regulations and **Federal Register** issuances, administers the Freedom of Information and Privacy Acts, handles day-to-day liaison on audit and investigative matters with the Congress, other Federal agencies, intergovernmental organizations, the news media, and the public. Three staff elements assist in carrying out these functions.

(2) The Assistant Inspector General for Analysis and Evaluation (AIG/A&E) provides an integrated approach to fraud prevention and detection in USDA programs and operations through the involvement and cooperation of the Department's principal officers and program managers; coordinates, analyzes, and reports on the conduct of fraud vulnerability assessments, recommends policies and provides technical assistance for investigative and audit operations. Two staff units assist in carrying out these functions.

(c) *Operational units.* (1) The Assistant General for Auditing (AIG/A) carries out the IG's domestic audit operations and foreign audits as directed by the IG through a Headquarters offices and the seven regional offices show in § 2610.3(a). Provides a continual audit review of ADP security throughout the U.S. Department of Agriculture. Auditing officials conduct operational liaison on audit matters, schedule and conduct audits determined to be necessary, release audit reports to management, follow agency action to assure that audit reports have been properly acted upon, monitor the quality of OIG audit reports, and coordinate activities with the Assistant Inspectors General (AIG's) for Security and Special Operations (SSO) and Investigations. The Auditing Headquarters office consists of the AIG/A, Deputy AIG/A, and three staff divisions.

(2) The Assistant Inspector General for Investigations (AIG/I) carries out the IG's domestic investigative operations, and foreign investigations as directed by the IG, through a Headquarters office and the seven regional offices shown in § 2610.3(b). Investigations officials conduct operational and intelligence liaison on investigative matters with the FBI, Secret Service and other Federal and State law enforcement organizations, determine the need for investigative action, conduct needed investigations, prepare factual reports of investigative findings, refer reports for appropriate administrative or legal action, follow agency action to assure that OIG investigation reports have been properly acted upon, monitor the quality of investigative reports, and coordinate activities with Auditing and Security and Special Operations (SSO). The Investigations Headquarters office consists of the Assistant Inspector General for Investigations (AIG/I), Deputy AIG/I, and two staff divisions.

(3) The Assistant Inspector General for Security and Special Operations (AIG/SSO) manages a comprehensive physical security protection program for the Department, conducts special investigations involving major programs, operations and/or high level officials, provides for the protection of the Secretary and other principal Department officials, receives and processes employee complaints concerning possible violations of law, rules, regulations or mismanagement, administers EEO contract investigation program, conducts OIG's internal personnel investigations and inspections and coordinates work with AIG/I, AIG/A, GSA, FBI, Secret Service, Interpol, and other law enforcement and security organizations. SSO is a Headquarters operational unit which consists of the Assistant Inspector General for Security and Special Operations (AIG/SSO) and three staff divisions.

§ 2610.3 Regional organization.

(a) Each Regional Inspector General for Auditing (RIG/A) is responsible to the IG and to the AIG/A, for supervising the performance of all OIG auditing activities relating to the Department's domestic programs and operations within an assigned geographic area, and to the IG for coordinating with the Regional Inspectors General for Investigations (RIG/I) to assure that audit and investigative capacity is used as one resource in accomplishing OIG goals and objectives. The addresses, phone numbers and territories served by the seven Audit Regional Offices are as follows:

Audit region, address, phone number, and territory

North Atlantic Region, 26 Federal Plaza, Room 17-130, New York, New York 10278, (212) 264-7510; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island Vermont, and Virgin Islands

Northeast Region, 6505 Belcrest Road, Room 422, Hyattsville, Maryland 20782, (301) 436-8763; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Southeast Region, 1447 Peachtree St., N.E., Room 900, Atlanta, Georgia 30309, (404) 881-3675; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Midwest Region, 165 N. Canal St., Suite 1400 S-C, Chicago, Illinois 60606, (312) 353-1352; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

Southeast Region, 101 South Main, Room 324, Temple Texas 76501, (817) 774-1430; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Great Plains Region, 9435 Holmes, Kansas City, Missouri 64131, Mailing address: P.O. Box 293, Kansas City, Missouri 64141/(816) 926-7657; Colorado, Iowa, Kansas, Missouri Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah

Western Region, 555 Battery Street, Room 514, San Francisco, California, 94111, (415) 556-4244; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

(b) Each RIG/I is responsible to the IG and to the AIG/I for supervising the performance of all OIG investigative activities relating to the Department's domestic programs and operations within an assigned geographic area, and to the IG for coordinating with the RIG/A to assure that the audit and investigative capacity is used as one resource in accomplishing OIG goals and objectives. The addresses, phone numbers and the territories served by the seven Investigations Regional Offices are as follows:

Investigations region, address, phone number, and territory

North Atlantic Region, 26 Federal Plaza, Room 1707, New York, New York 10278 (212) 264–8400; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and Virgin Islands

Northeast Region, 6505 Belcrest Road, Room 432A, Hyattsville, Maryland 20782 (301) 436–8850; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia

Southeast Region, 1447 Peachtree Street, N.E., Room 901, Atlanta, Georgia 30309 (404) 881–4377; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

Midwest Region, 165 N. Canal Street, Suite 1400 S–C, Chicago, Illinois 60606 (312) 353–1358; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin

Southwest Region, 101 South Main, Room 311, Temple, Texas 76501 (817) 774–1351; Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Great Plains Region, 9435 Holmes, Room 210, Kansas City, Missouri 64131, Mailing Address: P.O. Box 293, Kansas City, Missouri 64141 (816) 926–7606; Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming, and Utah

Western Region, 555 Battery Street, Room 526, San Francisco, California 94111 (415) 556–4245; Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Territory of Guam, Trust Territories of the Pacific, and Washington.

§ 2610.4 Agency requests for service.

Heads of USDA agencies and offices will direct requests for audit or investigative service as follows:

(a) To the Assistant Inspector General for Security and Special Operations (AIG/SSO) or the Regional Inspector General for Auditing or Investigations. Direct requests to the OIG audit or investigation official responsible for providing service of the type desired in the geographical area where service is desired.

(b) To Inspector General. Agency officials or other employees may, at any time, direct to the personal attention of the IG any audit or investigation matter that warrants such attention.

§ 2610.5 Other requests for service.

Other persons desiring to bring to the personal attention of the IG audit or investigation matters may address their communications to: The Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 2610.6 Delegations of authority.

(a) AIGs listed in § 2610.2; and RIGs, listed in § 2610.3, are authorized to take whatever actions are necessary to carry out their assigned functions. This authority may be redelegated.

(b) The IG reserves the right to establish audit and investigation policies, programs, procedures, and standards; to allocate appropriated funds; to determine audit and investigation jurisdiction, and to exercise any of the powers or functions or to perform any of the duties in the above delegation.

Dated at Washington D.C. this 12th day of September 1983.

John V. Graziano,

Inspector General.

[FR Doc. 83–25236 Filed 9–14–83; 8:45 am]

BILLING CODE 3410-23-M

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7 CFR Part 2620

Availability of Information to the Public

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The Office of Inspector General amends its regulations relating to the availability of information to the public to reflect a reorganization of the Office of Inspector General.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: L. L. Free, Assistant Inspector General, Administration, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–6915).

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

List of Subjects in 7 CFR Part 2620

Freedom of information.

Accordingly, Part 2620 is revised as follows:

PART 2620—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.
2620.1 General statement.
2620.2 Public inspection and copying.
2620.3 Request.
2620.4 Denials.
2620.5 Appeals.

Authority: 5 U.S.C. 301 and 552, 5 U.S.C. app.

§ 2620.1 General statement.

This part is issued in accordance with, and subject to, the regulations of the Secretary of Agriculture § 1.1 through § 1.16 (and Appendix A thereto) of this title, implementing the Freedom of Information Act, 5 U.S.C. 552, and governs the availability of records of the Office of Inspector General (OIG) to the public upon request.

§ 2620.2 Public inspection and copying.

5 U.S.C. 522(a)(2) requires that certain materials be made available for public inspection and copying, and that a current index of these materials be published quarterly or otherwise made available. OIG does not maintain any materials within the scope of these requirements.

§ 2620.3 Requests.

(a) Requests for OIG records shall be made in writing in accordance with § 1.3(a) of this title and addressed to the Assistant Inspector General, Administration (AIG/AD), Office of Inspector General, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or to the Director, Policy and Liaison Staff (PLS), same address. The above officials are delegated authority to make determinations regarding such requests in accordance with § 1.4(c) of this title.

(b) Requests should be reasonably specific in identifying the record requested and should include the name, address, and telephone number of the requester.

(c) Available records may be inspected and copied in the office of the AIG/AD, from 8:30 a.m. to 5 p.m., local time on regular working days or may be obtained by mail. Copies will be provided upon payment of applicable fees, unless waived or reduced, in accordance with the Department of Agriculture fee schedule, set forth in Appendix A to Part 1, Subpart A, of Subtitle A of this title.

§ 2620.4 Denials.

If the AIG/AD, determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the AIG/AD shall give written notice of denial in accordance with § 1.5(a) of this title.

§ 2620.5 Appeals.

The denial of a requested record may be appealed in accordance with § 1.3(e) of this title. Appeals shall be addressed to the Inspector General, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. The Inspector General will give prompt notice of his determination in accordance with § 1.5(d) of this title.

Dated at Washington, D.C., this 12th day of September 1983.

John V. Graziano,

Inspector General.

[FR Doc. 83-25279 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-23-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-14]

Revised Transition Area; Tobe, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The current geographical boundary of the Tobe, Colorado, Transition Area is formed by existing VOR Federal Airways which encompass the area. A recent action to eliminate alternate airways included V-19E which is the western boundary of the transition area. However, V-19E is being redesignated "V-389" and this new airway designation may now be used to describe the transition area. This action provides the revised description.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur H. Corwin, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168 (206) 431-2532.

SUPPLEMENTARY INFORMATION: The Tobe, Colorado, Transition Area was established to ensure segregation of aircraft operating in instrument weather conditions and other aircraft operating in visual weather conditions. The area will continue to be shown on aeronautical charts enabling pilots operating under visual flight rules to circumnavigate the area when necessary to comply with those rules. The floor of this controlled airspace is established at 8,500 feet MSL and will not change. The geographical area and associated airspace will also remain unchanged.

This rule involves only a minor editorial clarification in the description and makes no substantive changes. Therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days. For further information contact Ted Melland, Airspace & Procedures Specialist, ANM-533, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2533.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.M.T., September 29, 1983, as follows:

Tobe, Colorado [Revised]

Delete the words, "and on the west by V-19E" and insert the words, "and on the west by V-389".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (Sec. 1165 of the Federal Aviation Regulations and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. For this reason and the reasons given earlier in the preamble, it, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, September 9, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-24950 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Parts 2 and 4

Organization, Procedures and Rules of Practice; Nonadjudicative Procedures and Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: Several of the Commission's Rules of Practice are being amended to reflect an internal reorganization in the Commission's Bureau of Consumer Protection which has resulted in Associate Director positions being created. Assistant Directors of the Bureau of Consumer Protection now report to Associate Directors. The role of Assistant Directors of the Commission's Bureaus of Competition and Economics is unchanged. Additionally, Rule § 2.41(b) is being amended to delete Regional Directors from the list of those persons empowered to approve or reject compliance reports and to close compliance investigations. These functions are now being handled by the Headquarters staff. Because of the expertise of this staff, and the resulting efficiency, consolidating compliance in Headquarters should produce the same output, using fewer resources.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Barry Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3613

List of Subjects

16 CFR Part 2

Administrative practice and procedures, Investigations, Reporting requirements.

16 CFR Part 4

Administrative practice and procedures, Freedom of Information, Privacy, Sunshine Act.

PART 2—[AMENDED]

Section 2.1 is revised to read as follows:

§ 2.1 How Initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, governmental agencies, or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Commission upon its own initiative. The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the

Bureau of Competition, the Director, Deputy Directors, and Associate Directors of the Bureau of Consumer Protection, the Regional Directors and Assistant Regional Directors of the Commission's regional offices, and the Director of Federal-State and Consumer Relations, without power of redelegation, limited authority to initiate investigations.

Section 2.7 is amended by revising paragraphs (c) and (d) to read as follows:

§ 2.7 Compulsory process in investigations.

* * * * *

(c) The Bureau Director, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors, and Assistant Regional Directors, are authorized to negotiate and approve the terms of satisfactory compliance with subpoenas and civil investigative demands and, for good cause shown, may extend the time prescribed for compliance. Specifically, the subpoena power conferred by Section 329 of the Energy Policy and Conservation Act (42 U.S.C. 6299) is included within this delegation.

(d) *Petitions to limit or quash.*—Any petition to limit or quash any investigational subpoena or civil investigative demand shall be filed with the Secretary of the Commission within twenty (20) days after service of the subpoena or civil investigative demand, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the subpoena or civil investigative demand, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash an investigational subpoena or civil investigative demand shall be ruled upon by the Commission itself, but Bureau Directors, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors in the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon requests for extensions of time within which to file such petitions.

Section 2.11 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.11 Orders requiring access.

(a) In investigations other than those conducted under Section 20 of the Federal Trade Commission Act, the Commission may issue an order requiring any person, partnership or corporation being investigated to grant access to files for the purpose of examination and the right to copy any documentary evidence. The Directors, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, the Regional Directors, and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of redelegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring access issued during the investigation of any matter.

(b) Any petition to limit or quash an order requiring access shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring access, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash orders requiring access shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Associate Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring access.

Section 2.12 is amended by revising paragraphs (c) and (d) to read as follows:

§ 2.12 Reports.

* * * * *

(c) The Directors, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, and the Regional Directors and Assistant Regional Directors of the Commission's regional offices, pursuant to delegation of authority by the Commission, without power of redelegation, are authorized, for good cause shown, to extend the time prescribed for compliance with orders requiring reports or answers to questions issued during the investigation, study or survey of any matter or in connection with any of the Commission's reporting programs.

(d) Any petition to limit or quash an order requiring a report or answer to specific questions shall be filed with the Secretary of the Commission within twenty (20) days after service of the order, or, if the date for compliance is less than twenty (20) days after service of the order, then before the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the order requiring a report or answer to specific questions, including all appropriate arguments, affidavits and other supporting documentation. All petitions to limit or quash orders requiring reports or answers to questions shall be ruled upon by the Commission itself, but the above-designated Directors, Deputy Directors, Assistant Directors, Associate Directors, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon motions for extensions of time within which to file petitions to limit or quash orders requiring reports or answers to questions.

Section 2.14 is amended by revising paragraph (c) to read as follows:

§ 2.14 Disposition.

* * * * *

(c) The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the Bureau of Competition, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors, and the Director of Federal-State Consumer Relations, without power of redelegation, limited authority to close investigations.

Section 2.15 is amended by revising paragraph (a) to read as follows:

§ 2.15 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) The Bureau Director, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are hereby authorized to request, through the Commission's liaison officer, approval from the Attorney General for the issuance of an order requiring a witness to testify or provide other information granting immunity under

Title 18, section 6002, of the United States Code.

* * * * *

Section 2.16 is amended by revising paragraph (a) to read as follows:

§ 2.16 Custodians.

(a) *Designation.*—The Commission shall designate a custodian and one or more deputy custodians for material to be delivered pursuant to compulsory process in a investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission. The custodian shall have the powers and duties prescribed by Section 21 of the FTC Act. Deputy custodians may perform all of the duties assigned to custodians. The appropriate Bureau Directors, Deputy Directors, Associate Directors in the Bureau of Consumer Protection, Assistant Directors in the Bureau of Competition, Regional Directors or Assistant Regional Directors shall take the action required by Section 21(b)(7) of the FTC Act if it is necessary to replace a custodian or deputy custodian.

Section 2.41 is amended by revising the first sentence of paragraphs (b) and (c) and by adding a sentence to the end of paragraph (c) to read as follows:

§ 2.41 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Director and Deputy Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. * * *

(c) The Commission has delegated to the Director, Deputy Directors, and Assistant Directors of the Bureau of Competition and to the Director, Deputy Directors, and Associate Directors of the Bureau of Consumer Protection, and to the Regional Directors, the authority, for good cause shown, to extend the time within which reports of compliance with orders to cease and desist may be filed. * * * The authority under this subsection may not be redelegated, except that the Associate Director for Enforcement in the Bureau of Consumer Protection and the Assistant Director for Compliance in the Bureau of Competition may each name a designee under this subsection.

PART 4—[AMENDED]

Section 4.2 is amended by revising paragraph (a)(1) to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

(a) *Filing.*—(1) Except as otherwise provided, all documents submitted to the Commission, including those addressed to the Administrative Law Judge, shall be filed with the Secretary of the Commission; *provided, however,* that in any instance informal applications or requests may be submitted directly to the official in charge of any office of the Commission or to the appropriate Director, Deputy Director, Associate Director in the Bureau of Consumer Protection, or Assistant Director in the Bureau of Competition or to the Administrative Law Judge. Copies of all documents filed with the Secretary of the Commission by parties in adjudicative proceedings shall, at or before the time of filing, be served by the party filing the documents or person acting for that party on all other parties pursuant to § 4.4.

Section 4.4 is amended by revising the third sentence following the introductory sentence to read as follows. The introductory sentence is shown for reader convenience.

§ 4.4 Service.

* * * * *

(b) *By other parties.*—Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: * * * Where service of a document imposes time limitations upon Commission counsel for response, the time for such response shall not start running until the document is delivered to the Assistant Bureau Director in the Bureau of Competition, the Associate Bureau Director in the Bureau of Consumer Protection, or Regional Office of Complaint Counsel by the Office of the Secretary. * * *

(15 U.S.C. 46(f))

By direction of the Commission, dated June 17, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-25251 Filed 9-14-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-20155; File No. S7-941]

Amendments Relating to Reports of Stabilizing Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Commission has adopted amendments to Rules 17a-2 and 10b-7 under the Securities Exchange Act of 1934 and has rescinded related Form X-17A-1. The amendment to Rule 17a-2 eliminates the requirement that participants in an offering that is stabilized file with the Commission reports of their transactions, including stabilizing transactions, in offered securities. The amendment requires instead that information concerning stabilizing transactions be retained by the manager of the underwriting syndicate. The filing of reports concerning stabilization imposes burdens that exceed any benefits relating to the protection of investors. The amendment to Rule 10b-7 makes certain technical changes to that rule.

EFFECTIVE DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Howard A. Bartnick at (202) 272-2874, or Kenneth B. Orenbach at (202) 272-7391; Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

The Securities and Exchange Commission is adopting amendments to Rules 17a-2 and 10b-7 [1] under the Securities Exchange Act of 1934 (the "Act"). These amendments were published for public comment on August 26, 1982.[2]

Rule 17a-2 under the Act and its related Form X-17A-1 were adopted on February 9, 1939.[3] The rule has applied to any person who effects any purchase of a security for the purpose of pegging, fixing or stabilizing the price of a security during an offering. It has required any person who effects stabilizing purchases for his own account or for a syndicate or group account to report to the Commission "as manager" on the form all purchases (including stabilizing purchases), sales and transfers in the stabilized security made during the period beginning nine business days prior to the commencement of the offering and ending when stabilizing terminated. All purchases made to cover a short position also had to be reported. Any purchases or sales of the stabilized security made by other persons

[1] 17 CFR 240.10b-7 and 240.17a-2.

[2] Securities Exchange Act Release No. 18983 (August 26, 1982), 47 FR 37560 (the "Proposing Release").

[3] Securities Exchange Act Release No. 2008 (February 9, 1939), 4 FR 699.

participating in the offering for their own account were also required to be reported. These "not as manager" reports had to be transmitted, not later than five business days after termination of stabilization, to the manager, who in turn was required to forward them to the Commission.

These transactions were required to be reported on Form X-17A-1. The purpose of Form X-17A-1 was to inform the Commission (1) whether stabilizing transactions on behalf of the syndicate or group were effected in conformity with the restrictions and limitations of Rule 10b-7, the Commission's stabilizing rule, and therefore properly came within Exception viii of Rule 10b-6,[4] and (2) whether any other activity by any member of the syndicate had violated the prohibitions of Rule 10b-6 against the purchase of securities subject to a distribution.[5]

In the Proposing Release, the Commission proposed that Form X-17A-1 be rescinded and that Rule 17a-2 be amended to require only that the managing underwriter of a distribution of securities retain, in a separate file, records of all stabilizing transactions engaged in by participants in that distribution. The proposed amendments to Rule 17a-2 would have required only the retention of records of stabilizing purchases. Distribution participants consequently would have been relieved of the requirement that each compile the other market information previously required to be included in the reports filed with the Commission. The proposed amendments would also have raised the minimum level for non-registered, non-Regulation A offerings subject to the rule from the current $300,000 to $1,500,000.[6]

The Commission continues to believe that it is no longer necessary to monitor stabilization practices by means of reports required to be filed with the Commission. Indeed, the Commission rarely uses the information contained on Form X-17A-1 either to monitor or enforce compliance with Rules 10b-6 and 10b-7. In light of this fact, the reporting provisions of Rule 17a-2 have imposed burdens on participants in a distribution of securities that have exceeded the regulatory benefits of the rule.

Several commentators generally supported the proposed amendments.[7] Two commentators, however, opposed amending the basic framework of Rule 17a-2 and rescission of Form X-17A-1. Their objections to the proposals were based not only on the assumption that the form is necessary to monitor compliance with Rules 10b-6 and 10b-7, but also on the premise that the information on the form helps syndicate managers to determine the performance level and effectiveness of syndicate members. The Commission believes that, in general, such determinations are not an appropriate basis for regulatory requirements, particularly since syndicate managers may generally enter into contractual arrangements with participants of a syndicate or group to arrange a framework of discipline and review acceptable to the entire syndicate or group.

The Commission therefore is rescinding Form X-17A-1 and amending Rule 17a-2 to require that the managing underwriter of a distribution of securities retain, in a separate file, only records of all stabilizing transactions engaged in by participants in that distribution. The amendment to the rule requires the retention of records of stabilizing purchases only.[8] Distribution participants consequently are now relieved of the requirement that each compile the other trading information previously required to be included in the reports filed with the Commission.[9] The rule still requires the managing underwriter to notify syndicate or group members of information concerning syndicate stabilizing activity.[10]

For the reasons indicated in the Proposing Release, the Commission has also decided to raise the minimum level at which non-registered, non-Regulation A offerings are subject to the requirements of Rule 17a-2 to $1,500,000.[11] Finally, the Commission is adopting certain technical changes to Rule 10b-7 to conform certain cross-references therein to Rule 17a-2.

II. Regulatory Flexibility Act Considerations

The Chairman of the Commission certified in connection with the Proposing Release that the proposed amendments to Rules 17a-2 and 10b-7, if adopted, would not have a significant impact on a substantial number of small entities. None of the comments addressed that certification.

III. Effects on Competition

Section 23(a)(2) of the Act [12] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered the amendments to Rules 17a-2 and 10b-7 in light of the standards cited in Section 23(a)(2) and believes, for the reasons stated herein, that adoption of the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Act.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

IV. Statutory Basis and Text of Rule Amendments

Pursuant to Sections 9(a)(6), 10(b), 17(a) and 23(a) of the Act, 15 U.S.C. 78i(a)(6), 78j(b), 78q(a) and 78w(a), the Commission hereby amends Parts 240 and 249 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (l) of § 240.10b-7 to read as follows:

§ 240.10b-7 Stabilization to facilitate a distribution.

* * * * *

(l) *Recordkeeping requirements.* A person subject to this section shall keep the information and make the notification required by § 240.17a-2 even though he is not subject to that section as a broker, dealer or member of a national securities exchange.

* * * * *

2. By revising § 240.17a-2 as follows

[4] Exception viii of Rule 10b-6, 17 CFR 240.10b-6(a)(3)(viii), permits "stabilizing transactions not in violation of [Rule] 10b-7."

[5] *See* Securities Exchange Act Release No. 9717 (August 15, 1972), 37 FR 17383.

[6] Corresponding technical changes to Rule 10b-7 under the Act were also proposed.

[7] Five comment letters were received with respect to the proposals. File No. S7-941 contains these public comment letters as well as a summary of comments prepared by the staff of the Commission.

[8] One commentator sought clarification that records of ordinary, non-stabilizing transactions need not be maintained by the manager.

[9] Paragraph (d) of the rule nonetheless requires syndicate participants that effect stabilizing purchases for the syndicate account to report such purchases, as well as the time at which such stabilizing activity is terminated, to the manager.

[10] One of the commentators objected to that part of the Commission's original proposal that would have expanded the current rule by requiring the manager to notify syndicate members of *all* stabilizing transactions as well as the date and time of the first stabilizing transaction and of the termination of stabilizing. The commentator correctly observed that such a proposal would have imposed substantial economic burdens on managers. Accordingly, the Commission has decided to limit the manager's obligation to reporting to syndicate members the date and time of the first stabilizing purchase and of the termination of stabilizing.

[11] See *Proposing Release*, 47 FR at 37561.

[12] 15 U.S.C. 78w(a)(2).

§ 240.17a-2 Recordkeeping requirements relating to stabilizing activities.

(a) *Scope of section.* This section shall apply to any person who effects any purchase of a security for the purpose of, or who participates in a syndicate or group which engages in, pegging, fixing or stabilizing (hereinafter referred to as "stabilizing") the price of any security to facilitate an offering of any security (other than an "exempted security" as hereinafter defined) (1) With respect to which a registration statement has been, or is to be, filed pursuant to the Securities Act of 1933 as amended or (2) which is being, or is to be, offered pursuant to an exemption from registration under Regulation A adopted under the Securities Act of 1933 or (3) which is being, or is to be, otherwise offered, if the aggregate offering price of the securities being offered exceeds $1,500,000.

(b) *Definitions.* Unless the context clearly indicates otherwise, for the purposes of this section, the following terms shall have the meanings indicated:

(1) The term "manager" shall mean the person stabilizing for his sole account or for the account of a syndicate or group in which he is a participant, and who, by contract or otherwise, deals with the issuer, organizes the selling effort, receives some benefit from the underwriting which is not shared by other underwriters, or represents any other underwriters in such matters as maintaining the records of the distribution and arranging for allotments of securities offered.

(2) The term "exempted security" means an exempted security as defined in Section 3(a)(12) of the Act, including securities issued, or guaranteed both as to principal and interest, by the International Bank for Reconstruction and Development.

(c) *Records required to be maintained by manager.* Any person subject to this section who acts as manager shall:

(1) Promptly record and maintain in a separate file, for a period of not less than 12 months, the following information:

(i) The name and class of any security being stabilized, (ii) the price, the date, and the time at which the first stabilizing purchase and each succeeding stabilizing purchase was effected by the manager or by any participant in the syndicate or group, (iii) the names and addresses of the members of the syndicate or group, and (iv) their respective commitments, or in the case of a standby or contingent underwriting the percentage participation of each member of the syndicate or group therein; and

(2) Promptly furnish to each of the members of the syndicate or group the name and class of any security being stabilized, and the date and time at which the first stabilizing purchase was effected by the manager or by any participant in the syndicate or group; and

(3) Promptly notify each of the members of such syndicate or group of the date and time when stabilizing was terminated.

(d) *Notification of manager.* Any person who has a participation in a syndicate account but who is not a manager of such account, and who effects one or more stabilizing purchases for his sole account or for the account of a syndicate or group, shall within three business days following such purchase notify the manager of the price, the date and the time at which such stabilizing purchase was effected, and shall in addition notify the manager of the date and time when stabilizing was terminated.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.717 [Removed]

3. By removing § 249.717.

Dated: September 7, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25238 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 275

[Release No. IA-881; File No. S7-974]

Amendments to Investment Adviser Requirements Concerning Agency Cross Transactions for Advisory Clients

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission is adopting amendments to rule 206(3)-2 under the Investment Advisers Act of 1940 which will reduce the costs incurred by advisers in effecting agency cross transactions for clients by eliminating the requirement that a client's written consent to such transactions be renewed at least annually.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Esq., (202) 272-2079, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. After the effective date, questions should be directed to the Office of Chief Counsel, (202) 272-2030, Division of Investment Management, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On May 12, 1983, the Commission proposed for public comment [1] amendments to rule 206(3)-2 [17 CFR 275.206(3)-2] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b-1 et seq.] which would reduce costs incurred by advisers and registered broker-dealers controlling, controlled by or under common control with such advisers in complying with section 206(3) of the Advisers Act [15 U.S.C. 80b-6(3)] and rule 206(3)-2 thereunder. As here pertinent, section 206(3) generally prohibits an investment adviser acting as broker for a perosn other than a client knowingly to effect any sale or purchase of any security for the account of a client without disclosing to the client in writing before completion of each transaction the capacity in which he is acting and obtaining the client's consent to the transaction.[2] Rule 206(3)-2, as originally adopted,[3] permits an investment adviser, acting as broker for a third party, to effect an agency cross transaction[4] for the account of an advisory client, provided, among other things, the adviser obtains the client's written consent prospectively authorizing such transactions for a period not to exceed one year. As discussed in detail in Investment Advisers Act Release No. 860 (May 12,

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[1] Investment Advisers Act Release No. 860, May 12, 1983 [48 FR 22328, May 18, 1983].

[2] Section 206(3) also prohibits an investment adviser acting as principal for his own account knowingly to sell any security to or purchase any security from a client without disclosing to such client in writing before completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction.

In Investment Advisers Act Release No. 40 (February 5, 1945), the Commission construed the section to require that the written disclosure of capacity must be given and the client's consent obtained prior to the completion of each transaction effected by the investment adviser acting as broker for a third party or as principal for his own account. That release interpreted section 206(3) as not permitting blanket consents. The Commission subsequently modified that position with respect to transactions effected by the adviser acting as broker by adopting rule 206(3)-2.

[3] Investment Advisers Act Release No. 589, June 1, 1977 [42 FR 29300].

[4] Under the rule, an agency cross transaction is defined to mean "a transaction in which a person acts as an investment adviser in relation to a transaction in which such investment adviser, or any person controlling, controlled by or under common control with such investment adviser, acts as broker for both such advisory client and for another person on the other side of the transaction."

1983), the Commission believes that it is appropriate to amend the rule in order to relieve advisers from the considerable time and expense involved in obtaining annual renewals of such client consents.

I. Discussion

Rule 206(3)-2 as originally adopted deems a registered investment adviser to be in compliance with section 206(3) of the Advisers Act if the adviser obtains an advisory client's consent prospectively authorizing agency cross transactions for a period not to exceed one year, provided other conditions specified in the rule are met. Under the rule, the investment adviser must make full written disclosure to the client that, with respect to agency cross transactions, the adviser or other person relying on the rule will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions. In addition, the adviser or other person relying on the rule must send to the client, at or before completion of each agency cross transaction, a written confirmation which describes the transaction and offers to furnish additional information concerning the transaction. Each client must also be sent, within 30 days prior to the expiration of the written consent, a written disclosure statement identifying the total number of transactions during the period and the total amount of all commissions or remuneration received by the adviser and any person relying on the rule in connection with agency cross transactions during the period. Finally, the rule requires that each written disclosure statement and confirmation required by the rule include a conspicuous statement that the client's blanket written consent can be revoked at any time by written notice from the client to the investment adviser or any other person relying on the rule.[5]

The amendments to rule 206(3)-2 proposed by the Commission in Investment Advisers Act Release No. 860 would amend paragraph (a)(1)(i) of the rule to delete the provision limiting the validity of a client's written blanket consent to agency cross transactions for a period of a year or less. Minor technical amendments were also proposed to conform the other provisions of the rule to this proposed change.

In response to the proposal, the Commission received three comments. Two of the commentators supported the amendments as proposed. A third commentator, while supporting the proposed amendments, suggested that an adviser or other person relying on the rule also should not be required to furnish clients with a written statement every year summarizing various information regarding that year's agency cross transactions. This commentator suggested that, since the written annual statement contains information which advisers are required to retain under the rule in any event (in order to respond to client requests for information with respect to a particular transaction), the rule should be revised to permit advisers to furnish the written annual statement only upon client request.

The Commission has considered this latter suggestion and decided not to make or propose further changes in rule 206(3)-2 at this time. However, in response to this comment and a fourth comment letter received after the close of the comment period, the staff intends to review the annual statement requirement in order to determine whether a revision of its contents is indicated.

II. Conclusion

After consideration of all the public comments, and being otherwise duly advised, the Commission has decided to adopt the amendments to rule 206(3)-2 as they were proposed in Investment Advisers Release No. 860 (May 12, 1983).

III. Authority, Effective Date

The Commission adopts the amendments to rule 206(3)-2 pursuant to the provisions of section 211(a) of the Advisers Act [15 U.S.C. 80b-11(a)]. The amendments adopted herein shall become effective September 15, 1983.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendment

PART 275—[AMENDED]

Part 275 of Chapter II of Title 17 of the Code of Federal Regulations under the Investment Advisers Act of 1940 is amended by revising paragraph (a) of § 275.206(3)-2 as follows:

§ 275.206(3)-2 Agency cross transactions for advisory clients.

(a) An investment adviser registered under section 203 of the Act [15 U.S.C. 80b-3], or a person registered as a broker-dealer under section 15 of the Securities Exchange Act of 1934 [15 U.S.C. 78o] and controlling, controlled by or under common control with an investment adviser registered under section 203 of the Act, shall be deemed in compliance with the provisions of section 206(3) of the Act [15 U.S.C. 80b-6(3)] in effecting an agency cross transaction for an advisory client, if:

(1) The advisory client has executed a written consent prospectively authorizing the investment adviser, or any other person relying on this rule, to effect agency cross transactions for such advisory client, provided that such written consent is obtained after full written disclosure that with respect to agency cross transactions the investment adviser or such other person will act as broker for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding, both parties to such transactions;

(2) The investment adviser, or any other person relying on this rule, sends to each such client a written confirmation at or before the completion of each such transaction, which confirmation includes (i) a statement of the nature of such transaction, (ii) the date such transaction took place, (iii) an offer to furnish upon request, the time when such transaction took place, and (iv) the source and amount of any other remuneration received or to be received by the investment adviser and any other person relying on this rule in connection with the transaction, *Provided, however,* That if, in the case of a purchase, neither the investment adviser nor any other person relying on this rule was participating in a distribution, or in the case of a sale, neither the investment adviser nor any other person relying on this rule was participating in a tender offer, the written confirmation may state whether any other remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of such customer;

(3) The investment adviser, or any other person relying in this rule, sends to each such client, at least annually, and with or as part of any written statement or summary of such account from the investment adviser or such other person, a written disclosure statement identifying the total number of such transactions during the period since the date of the last such statement or

[5] Rule 206(3)-2 expressly does not apply to a transaction if the investment adviser, or the adviser and any person controlling, controlled by or under common control with the adviser, recommends the transaction to both the seller and the purchaser. Nor does the rule relieve an adviser, or other person relying on the rule, from the obligation to act in the best interests of the client with respect to the transaction or relieve the adviser or other person from any disclosure obligation imposed by section 206(1) [15 U.S.C. 80b-6(1)] or section 206(2) [15 U.S.C. 80b-6(2)] of the Advisers Act or by other applicable provisions of the federal securities laws.

summary, and the total amount of all commissions or other remuneration received or to be received by the investment adviser or any other person relying on this rule in connection with such transactions during such period;

(4) Each written disclosure statement and confirmation required by this rule includes a conspicuous statement that the written consent referred to in paragraph (a)(1) of this section may be revoked at any time by written notice to the investment adviser, or to any other person relying on this rule, from the advisory client; and

(5) No such transaction is effected in which the same investment adviser or an investment adviser and any person controlling, controlled by or under common control with such investment adviser recommended the transaction to both any seller and any purchaser.

* * * * *

Dated: September 9, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25237 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1300

Ethical and Other Conduct Standards and Responsibilities of Employees and Special Government Employees

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority is revising its employee conduct regulations to specifically include prohibitions against harassment on the basis of sex, race, color, religion, national origin, age, and handicap. In March 1983 the TVA Board of Directors reissued a policy statement prohibiting such harassment within TVA, and this revision updates TVA's conduct regulations, emphasizing the Board of Directors' 1983 policy statement and TVA's continuing commitment to eliminate such behavior from the workplace. In addition, the revision clearly states to all TVA employees that such conduct is treated seriously and if found will result in appropriate disciplinary action. These regulations apply to all TVA employees, including those contract employees in an employer-employee relationship with TVA and all TVA special Government employees.

DATE: October 17, 1983.

FOR FURTHER INFORMATION CONTACT: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, Telephone 615-632-2241.

List of Subjects in 18 CFR Part 1300

Conflict of interest.

PART 1300—[AMENDED]

18 CFR Part 1300 is amended as follows:

1. The authority citation for Part 1300 is revised to read as follows:

Authority: 16 U.S.C. 831-831dd; E.O. 11222, 3 CFR 1964-1965 Comp., p. 306, 5 CFR 735.104. Sections 1300.735-21-23 and 1300.735-37-39 are issued under authority of 16 U.S.C. 831-831dd.

2. In Part 1300, the following sections are added to Subpart B to read as follows:

§ 1300.735-21 Sexual harassment.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from sexual harassment. Accordingly, all employees must avoid any action or conduct which could be viewed as sexual harassment including:

(a) Unwelcome sexual advances;

(b) Requests for sexual favors; and

(c) Other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

§ 1300.735-22 National origin harassment.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from national origin harassment. Accordingly, all employees must avoid any action or conduct which could be viewed as national origin harassment, including ethnic slurs and other verbal or physical conduct relating to an individual's national origin when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

§ 1300.735-23 Harassment on the basis of race, color, religion, age, or handicap.

It is TVA policy that all TVA employees are responsible for assuring that the workplace is free from harassment on the basis of race, color, religion, age, or handicap. Accordingly, all employees must avoid any action or conduct which could be viewed as harassment on these bases, including any verbal or physical conduct relating to an individual's race, color, religion, age, or handicap when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

3. In Part 1300, the following sections are added to Subpart C to read as follows:

§ 1300.735-37 Sexual harassment.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from sexual harassment. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as sexual harassment including:

(a) Unwelcome sexual advances;

(b) Requests for sexual favors; and

(c) Other verbal or physical conduct of a sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

§ 1300.735-38 National origin harassment.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from national origin harassment. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as national origin harassment, including ethnic slurs and other verbal or physical conduct relating to an individual's national origin when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

§ 1300.735-39 Harassment on the basis of race, color, religion, age, or handicap.

It is TVA policy that all TVA special Government employees are responsible for assuring that the workplace is free from harassment on the basis of race, color, religion, age, or handicap. Accordingly, all special Government employees must avoid any action or conduct which could be viewed as harassment on these bases, including any verbal or physical conduct relating to an individual's race, color, religion, age, or handicap when such conduct:

(a) Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

(b) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(c) Otherwise adversely affects an individual's employment opportunities.

Dated: September 6, 1983.

W. F. Willis,

General Manager.

[FR Doc. 83-25080 Filed 9-14-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 83-192]

Private Aircraft Arriving in the United States

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by extending to the Pacific, Gulf of Mexico, and Atlantic Coasts, the area of entry from which private aircraft arriving in the United States must furnish a notice of intended arrival to Customs. The amendments, which were previously published on an interim basis, further provide that the aircraft required to furnish such notice must land for Customs processing at the *nearest* designated airport to the point of crossing the United States border or coastline. Prior to the interim change, the regulation provided for a notice of intended arrival only for private aircraft arriving in the United States via the U.S./Mexican border, and provided for landing at any of several designated airports.

The amendments are necessary because of the severity of the drug abuse problem, the major increase in illegal drug importations and the need for immediate action to expand the effectiveness of drug smuggling enforcement.

EFFECTIVE DATE: October 17, 1983. The interim regulation, published as T.D. 82-52 in the **Federal Register** on March 24, 1982 (47 FR 12620), and amplified by T.D. 82-88, published in the **Federal Register** on May 6, 1982 (47 FR 19517), will remain in effect until this final rule takes effect.

FOR FURTHER INFORMATION CONTACT: C. Duane Oveson, Office of Passenger Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5607).

SUPPLEMENTARY INFORMATION:

Background

The National Narcotics Intelligence Consumers Committee has documented that the supply of illegal drugs to the United States market and the subsequent extent of drug abuse has reached monumental proportions. Illegal drugs generated an estimated $80 billion in retail sales in 1980, a 23 percent increase from 1979. The severity of the drug abuse problem, the preponderance of drug users, and the major increases in volumes of illegal drug importations in the United States are indicated by the significant increase in drug-related deaths, medical care, arrests, and seizures.

The smuggler organization has solidified a dominant position in the United States through the penetration of strategic points in the economy. Countries to the south of the United States are major sources of illegal drugs destined for the United States. Smuggling by air is the preferred mode of transportation for low-volume, high-cost narcotics. Private aircraft account for the highest volume and largest individual loads of these drugs. A Stanford Research Institute Study indicates the magnitude of the air smuggling threat at approximately 6,700 flights annually, involving approximately 1,000 private aircraft. Although recent air interdiction activities in the southeastern United States have resulted in many arrests and seizures, an end to the present situation of drug abuse in the United States is not in sight.

In order to address this national problem, it is necessary to take action to expand the effectiveness of smuggling enforcement. In 1975, the Customs Regulations were amended by adding a new § 6.14 (19 CFR 6.14), to provide for a notice of intended arrival for private aircraft arriving in the United States via the United States/Mexican border. Section 6.14 further provided that such private aircraft land at any one of 14 designated airports along the United States/Mexican border.

Because of the magnitude of the drug problem, and in direct response to Executive and Congressional directives, by an interim regulation published as T.D. 82-52 in the **Federal Register** on March 24, 1982 (47 FR 12620), effective April 1, 1982, the notice requirement was extended to private aircraft arriving in the United States via the Gulf of Mexico and Atlantic Coasts. The interim regulation further provided that the aircraft required to furnish such notice must land at the *nearest* designated airport to the United States border or coastline crossing point. The list of designated airports also was expanded.

By T.D. 82-88, published in the **Federal Register** on May 6, 1982 (47 FR 19517), two additional airports were added to the list of designated airports in § 6.14.

Pursuant to T.D. 82-52, interested parties were given until May 24, 1982, to submit comments on the interim regulation.

Discussion of Comments

Numerous public comments were received in response to T.D. 82-52. The comments are generally supportive of Customs goal to expand the effectiveness of drug smuggling enforcement. The primary concerns expressed were the manner of imposition of the interim regulation, the airports which were designated in § 6.14(g), and the effect of the regulation upon local businesses and individuals.

Several commenters criticize the manner of imposition of the interim regulation. It is contended that insufficient notice was provided to the public before the regulation took effect, that there was no consultation with interested parties prior to issuance, and that the document did not comply with the provisions of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

Customs acknowledges that the public had minimal notice prior to the effective date of the interim regulation. However, as stated in T.D. 82-52, in order to address the national drug smuggling problem, it was necessary for Customs to take immediate action to expand the effectiveness of its smuggling enforcement. The changes to § 6.14 were made in direct response to Executive and Congressional directives. The amendments provide Customs with

positive entry control to increase enforcement capability by identifying private aircraft which may be involved in smuggling activity. T.D. 82-52 also stated that, because of the severity of the drug abuse problem, the major increase in illegal drug importations, and the need for immediate action, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure were impracticable, unnecessary, and contrary to the public interest. Pursuant to 5 U.S.C. 553(d)(3), a delayed effective date was dispensed with. T.D. 82-52 solicited public comments, and those comments have been carefully considered in the formulation of the final rule.

A number of comments address the designation of airports in § 6.14(g). Most of these comments state the need for designation of additional individual airports. One urges the designation of 10 additional airports. The comments are concerned with the effect of the landing requirement in § 6.14(d) on individual aircraft and on local businesses located at non-designated airports.

Customs has determined that the New Orleans Lakefront Airport in New Orleans Lousiana, will be added to the list of designated airports. This addition is being made because of congestion at the other nearby designated airport, New Orleans International Airport (Moisant Field), and because of the ease with which Customs service may be provided to New Orleans Lakefront Airport.

No other additions will be made to the list of designated airports. We believe that the purpose of amending § 6.14, to expand the effectiveness of drug smuggling enforcement, is best served by the designated airports listed in the interim regulation, with the addition of New Orleans Lakefront Airport. Additional designated airports will not assist Customs goals of the collection of air intelligence and the identification of smuggler aircraft. Furthermore, Customs does not believe that the flow of air traffic makes the designation of additional airports necessary. In individual cases where the landing requirement would result in undue hardship, an exemption from the landing requirement may be requested pursuant to § 6.14(f).

One comment states that the interim regulation is technically inadequate, and suggests certain changes.

Changes to Interim Regulation

After consideration of the comments and further review of T.D. 82-52, several changes have been made in the final rule.

The scope of § 6.14(a) has been expanded to include the Pacific Coast. This change is consistent with the intent of amending § 6.14, and the change makes paragraph (a) parallel paragraph (b), which pertains to the Gulf and Atlantic Coasts. It is not believed that this addition will have a major impact upon private aircraft since most private aircraft subject to § 6.14(a) will enter the United States via the Mexican border. As a result of the inclusion of the Pacific Coast within the scope of § 6.14(a), the words of the interim regulation "and between 97 degrees and 120 degrees west longitude," which were intended to modify the crossing point into the United States, are inappropriate, and have been deleted.

In § 6.14(b), the departing area for private aircraft which must report has been changed from "a foreign place in the Western Hemisphere south of 31 degrees north latitude" to "a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico." This change has been made to have § 6.14 conform with the Federal Aviation Administrtation regulations with respect to flight plan filing (Part 199, Federal Aviation Regulations (14 CFR Part 199)). The words "or from any place in Mexico" have been added because there are points in Mexico above 30 degrees north latitude, and it is intended that all private aircraft departing from Mexico be subject to § 6.14. The statement in T.D. 82-52 that notice may occur anytime while the aircraft is within the Gulf of Mexico Coastal or Atlantic Coastal ADIZ has been eliminated because it was unnecessary.

Section 6.14(c)(7) has been changed to reflect the landing requirement of § 6.14(d).

Several changes have been made to § 6.14(f). In the second sentence as it was published in T.D. 82-52 (the third sentence in the final rule), the word "desired" has been substituted for the word "required." A sentence has been added to § 6.14(f)(1) stating that approval of an exemption from the landing requirement of § 6.14(d) is at the discretion of Customs. This is not a substantive change, but has been inserted for clarification. Also, § 6.14(f)(1) has been revised to require additional information in a request for an exemption from the landing requirement. A new § 6.14(f)(2) has been added to cover the reporting requirement when a private aircraft has been granted an exemption from the landing requirement and the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, or over a point on the Gulf or Atlantic Coasts north of 30 degrees latitude. A new § 6.14(f)(3) has been added to state that the owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must notify Customs upon the sale of the aircraft, change in registration number, or change in authorized pilot or crewmembers. That section has also been amended to state that one pilot or crewmembers as identified in paragraph (f)(1)(v) must be present on every flight to maintain exemption status.

In § 6.14(g), the New Orleans Lakefront Airport in New Orleans, Louisiana, has been added to the list of designated airports.

In addition, several minor, non-substantive changes have been made for the purpose of clarity.

Executive Order 12291

This amendment is not a "major rule" as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 requires that Customs must inform the public why it is collecting this information, how it will use it, and whether it must be given to Customs. Customs requires the information in order to carry out the laws and regulations which it administers. This regulation applies to private aircraft arriving in the United States via the U.S./Mexican border or the Atlantic, Pacific and Gulf coasts, and it relates to the processing of the aircraft and its passengers. The information is used for arranging appropriate Customs services for arrival inspection processing and enhanced enforcement entry control for effective violator interdiction. The requirements are mandatory but the regulation provides a means for requesting an exemption from the landing requirement. The granting of the exemption is at the authority of Customs. Pursuant to the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned control number 1515-0098 to the reporting requirements contained in this document.

Regulatory Flexibility Act

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities. The rule's provision for exemption from the landing requirement will serve to sufficiently lessen any

significant economic impact or burden on small entities that would otherwise occur. Although the rule will have an economic impact on owners of small aircraft that are not able to obtain an exemption from the landing requirement, as well as on fixed base operators at airports that are not designated airports under the rule, Customs believes that, over-all, there will not be a significant economic impact on a substantial number of small entities.

Drafting Information

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

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air transportation, Aircraft, Airports.

Amendments to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: May 26, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 6—AIR COMMERCE REGULATIONS

Section 6.14 is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the United States.

(a) *Advance report of penetration of United States airspace via United States/Mexican border or Pacific Coast.* All private aircraft arriving in the United States via the United States/Mexican border or the Pacific Coast from a foreign place in the Western Hemisphere south of 33 degrees north latitude shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States border or coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(b) *Advance report of penetration of United States airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the United States via the Gulf of Mexico or Atlantic Coasts from a foreign place in the Western Hemisphere south of 30 degrees north latitude or from any place in Mexico shall furnish a notice of intended arrival to the Customs Service at the *nearest* designated airport to point of crossing listed in paragraph (g) of this section for first landing in the United States. The notice must be furnished at least 15 minutes before crossing the United States coastline. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs.

(c) *Notice to Customs.* The notice to Customs required by paragraphs (a) and (b) of this section shall include the following:

(1) Aircraft registration number;

(2) Name of aircraft commander;

(3) Number of United States citizen passengers;

(4) Number of alien passengers;

(5) Place of last departure (foreign);

(6) Estimated time and location of crossing United States border/coastline;

(7) Name of United States airport of first landing (designated airport listed in paragraph (g) of this section *nearest* to point of crossing unless an exemption has been granted in accordance with paragraph (f) of this section); and

(8) Estimated time of arrival.

(d) *Landing requirement.* Private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section shall land for Customs processing at the *nearest* designated airport to the border or coastline crossing point as listed in paragraph (g) of this section, unless exempted from this requirement in accordance with paragraph (f) of this section. In addition to the requirements of this paragraph, private aircraft commanders must comply with all other landing and notice of arrival requirements.

(e) *Private aircraft defined.* For the purpose of this section, "private aircraft" means any aircraft other than an aircraft engaged in the transportation of passengers or cargo, or both, for hire.

(f) *Exemption from the landing requirement.* (1) The owner or aircraft commander of a private aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), and (c) of this section may request an exemption from the landing requirement specified in paragraph (d) of this section. Approval of the request and granting of authority to be exempted from the landing requirement specified in paragraph (d) are at the discretion of the district director of Customs. The request shall be submitted to the district director in charge of the airport at which Customs processing is desired and shall be submitted at least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of 1 year, or at least 15 days before the anticipated arrival if the request is for a single flight. The request shall include the following information:

(i) Aircraft registration number;

(ii) Aircraft identity (make, model number, color, and type, such as turboprop, turbojet, reciprocating, helicopter, etc.);

(iii) Whether aircraft is transponder-equipped (yes or no);

(iv) Name, address, and date of birth of owner(s) of the aircraft (if the aircraft is being operated pursuant to a lease, the name, address, and date of birth of the lessee, in addition to that of the owner);

(v) Names, addresses, and dates of birth of usual or anticipated pilots and crewmembers;

(vi) Names, addresses, and dates of birth of usual or anticipated passengers, to the extent possible;

(vii) Description of usual or anticipated baggage or cargo;

(viii) Description of company's usual business activity, if aircraft is company-owned;

(ix) Name of airport(s) of intended first landing in the United States;

(x) Foreign place or places from which flight(s) will usually originate; and

(xi) Reason for request for overflight exemption.

(2) If a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Pacific Coast north of 33 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 33 degrees north latitude. Similarly, if a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, and if the aircraft is crossing into the United States over a point on the Gulf or Atlantic Coasts north of 30 degrees north latitude, the aircraft must furnish notice to Customs in accordance with paragraph (c) of this section at least 15 minutes before crossing 30 degrees north latitude. The notice shall be given to a designated airport specified in paragraph (g) of this

section. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to paragraphs (a) and (b) of this section is unnecessary.

(3) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale of the aircraft;

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers, as specified in paragraph (f)(1)(v) of this section. One pilot or crewmember as identified in paragraph (f)(1)(v) of this section must be present on every flight to maintain exemption status. The notifications specified in this paragraph must be given to Customs within 5 working days of the change or sale, or before a flight for which there is an exemption, whichever occurs earlier.

(g) *Designated airports.*

Location	Name
Beaumont, Tex.	Jefferson County Airport.
Brownsville, Tex.	Brownsville International Airport.
Calexico, Calif.	Calexico International Airport.
Corpus Christi, Tex.	Corpus Christi International Airport.
Del Rio, Tex.	Del Rio International Airport.
Douglas, Ariz.	Bisbee-Douglas International Airport.
Eagle Pass, Tex.	Eagle Pass Municipal Airport.
El Paso, Tex.	El Paso International Airport.
Fort Lauderdale, Fla.	Fort Lauderdale Executive Airport.
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport.
Fort Pierce, Fla.	St. Lucie County Airport.
Houston, Tex.	William P. Hobby Airport.
Key West, Fla.	Key West International Airport.
Laredo, Tex.	Laredo International Airport.
McAllen, Tex.	Miller International Airport.
Miami, Fla.	Miami International Airport.
Miami, Fla.	Opa-Locka Airport.
New Orleans, La.	New Orleans International Airport (Moisant Field).
New Orleans, La.	New Orleans Lakefront Airport.
Nogales, Ariz.	Nogales International Airport.
Presidio, Tex.	Presidio-Lely International Airport.
San Diego, Calif.	Brown Field.
San Diego, Calif.	San Diego International Airport (Lindbergh Field).
Tampa, Fla.	Tampa International Airport.
Tucson, Ariz.	Tucson International Airport.
West Palm Beach, Fla.	Palm Beach International Airport.
Yuma, Ariz.	Yuma International Airport.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

[FR Doc. 83-25169 Filed 9-14-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 556

Oral Dosage Form New Animal Drugs Not Subject To Certification; Tolerances for Residues of New Animal Drugs in Food; Tiamulin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SDS Biotech Corp. providing for use of tiamulin in swine drinking water for treating certain forms of swine dysentery and to establish tolerances for residues of tiamulin in edible tissues of swine.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Concord Township, Painesville, OH 44077, filed NADA 134-644 which provides for use of Denagard™ (tiamulin) Soluble Antibiotic for swine for preparation of a medicated drinking water to treat swine dysentery associated with *Treponema hyodysenteriae.*

The sponsor of this NADA submitted studies to demonstrate that the drug is safe and effective for its intended use. Additionally, the agency has validated and approved, for regulatory surveillance purposes, an analytical method that is specific for 8-*alpha*-hydroxymutilin, the marker substance for total residues of tiamulin in swine tissues. The NADA is approved and the regulations are amended to reflect the approval and to establish a tolerance for 8-*alpha*-hydroxymutilin and safe concentrations for total residues of tiamulin in edible swine tissues. The basis for approval is discussed in the freedom of information summary. The tolerance is established for the concentration of the marker residue in the target tissue selected to monitor for total residues of the drug in the target animal. The safe concentrations refer to the concentrations of total residues considered safe in edible tissues.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an enviromental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 520

Animal drugs—oral use.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (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), Parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 520 is amended by adding new § 520.2455 to read as follows:

§ 520.2455 Tiamulin.

(a) *Specifications.* A water-soluble powder containing 45 percent tiamulin used to make a medicated drinking water containing 227 milligrams tiamulin per gallon.

(b) *Sponsor.* See No. 052313 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.738 of this chapter.

(d) *Conditions of use in swine*—(1) *Amount.* 3.5 milligrams of tiamulin per pound of body weight for 5 days.

(2) *Indications for use.* For the treatment of swine dysentery associated with *Treponema hyodysenteriae.*

(3) *Limitations.* Use for 5 consecutive days. Withdraw 3 days before slaughter. Prepare fresh water daily. Not for use in

swine over 250 pounds body weight. Use as only source of drinking water.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

2. Part 556 is amended by adding new § 556.738 to read as follows:

§ 556.738 Tiamulin.

The marker residue selected to monitor for total residues of tiamulin in swine is 8-*alpha*-hydroxymutilin and the target tissue selected is liver. A tolerance is established in swine at 0.4 part per million for 8-*alpha*-hydroxymutilin in liver. A marker residue concentration of 0.4 part per million in liver corresponds to a concentration for total residues of tiamulin of 10.8 parts per million in liver. The safe concentrations for total residues of tiamulin in the uncooked edible tissues of swine are 3.6 parts per million in muscle, 10.8 parts per million in liver, and 14.4 parts per million in kidney and fat.

Effective date. September 15, 1983.

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

Dated: September 9, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-25105 Filed 9-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7913]

Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982; Reporting of State and Local Income Tax Refunds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the reporting of State and local income tax refunds. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations affect all persons who, with respect to individuals, make payments of refunds of State or local income taxes, or allow credits or offsets with respect to such taxes, and provide them with the guidance to comply with the law.

DATES: The regulations apply to payments of refunds, and credits and offsets allowed, after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982 (26 CFR Part 5f) to provide rules relating to the reporting of State and local income tax refunds under section 6050E of the Internal Revenue Code of 1954. The regulations reflect the addition of section 6050E by section 313 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 603).

Under section 6050E, any person who, with respect to an individual, makes payments of refunds of State or local income taxes, or allows credits or offsets with respect to such taxes, aggregating $10 or more during a calendar year must make an information return. In addition, a statement must be furnished to the recipient during January of the calendar year following the year of the refund, credit or offset. These regulations provide rules and definitions with respect to those reporting requirements.

In general, the regulations define "credit or offset" to include only amounts which, in lieu of being refunded to the taxpayer, are used for the taxpayer's benefit by reducing an existing or future liability of the taxpayer. The regulations also provide that amounts of refunds, credits or offsets need not be reported, and a statement need not be provided to the taxpayer, if it can be ascertained that the applicable taxpayer did not receive a tax benefit from the payment to which the refund, credit or offset is attributable. The regulations are effective for refunds paid and credits or offsets allowed after December 31, 1982.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, a Regulatory Flexibility Analysis is not required.

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act.

Drafting Information

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

List of Subjects in 26 CFR Part 5f

Income taxes, Filing requirements, Tax Equity and Fiscal Responsibility Act of 1982.

Amendments to the Regulations

The amendments of 26 CFR Part 5f are as follows:

Income Tax Regulations

PART 5f—[AMENDED]

The following § 5f.6050E-1 is added at the appropriate place:

§ 5f.6050E-1 Reporting of State and local income tax refunds.

(a) *Applicability.* Section 6050E and this section apply to any refund officer who, with respect to an individual, makes payments of refunds of State or local income taxes or allows credits or offsets with respect to such taxes aggregating $10 or more for such individual in any calendar year.

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

(1) The term "refund officer" means the officer or employee of a State or local taxing jurisdiction having control of payments of refunds or the allowance of credits or offsets, or the person appropriately designated for purposes of this section.

(2) The term "State" shall include the District of Columbia but shall not include the Commonwealth of Puerto Rico or any possession of the United States.

(3) The term "individual" shall not include an estate or trust.

(4) The term "credit or offset" means an overpayment of tax which, in lieu of being refunded to the taxpayer, is:

(i) Applied against an existing liability of the taxpayer,

(ii) Available for application against a future liability of the taxpayer, or

(iii) Otherwise used or available for use for the taxpayer's benefit.

(c) *Requirement of reporting.* Every refund officer described in paragraph (a) of this section shall make an information return in accordance with this section for each calendar year. An information return is not required, however, with respect to any refund paid or credit or offset allowed if the refund officer determines that the individual to whom the refund is paid or for whom the credit or offset is allowed did not receive a tax benefit for Federal income tax purposes from the payment to which the refund, credit or offset is attributable. A refund officer shall determine that an individual did not receive a tax benefit from a payment with respect to personal income taxes by verifying that the individual did not claim itemized deductions for Federal income tax purposes for the taxable year giving rise to the refund, credit or offset. Verification shall be made solely from:

(1) A copy of Schedule A of the individual's Federal income tax return if required to be attached to the State or local income tax return,

(2) The State or local income tax return if transcription of information from Schedule A of the Federal return on the State or local income tax return is required for the purpose of computing liability for the State or local income tax, or

(3) Information obtained through a voluntary information exchange agreement with the United States for the applicable taxable year.

(d) *Prescribed Form.* Except as otherwise provided in this section, the information return required by paragraph (c) of this section shall be made on Forms 1096 and 1099. However, any refund officer may prepare and use a form which contains provisions identical with those of Forms 1096 and 1099 if such refund officer complies with all revenue procedures relating to substitute Forms 1096 and 1099 in effect at that time.

(e) *Refunds involving different taxable years.* In the case of refunds paid or credits or offsets allowed during a calendar year with respect to two or more taxable years of an individual, a separate Form 1099 shall be filed with respect to each taxable year of the individual. Thus, if during calendar year 1983 a refund officer pays to an individual a refund of $15 with respect to that individual's taxable year ending in 1982 and $20 with respect to that individual's taxable year ending in 1981, a separate Form 1099 shall be filed for each of the two payments. If, instead, the refund with respect to the individual's taxable year ending in 1982 were $5 instead of $15, no return would be required for the payment of $5.

(f) *Information required.* The information required to be reported on Forms 1096 and 1099 includes the aggregate amount of refunds, credits, and offsets made or allowed during the calendar year with respect to the taxable year covered by the return; the name, address and taxpayer identification number of the individual with respect to whom such payment, credit, or offset was made or allowed; the taxable year covered by the return; and such other information as may be required by the forms. In addition, the nature of the tax is required to be indicated on the Form 1099 in any case where the refund, credit or offset is made or allowed with respect to a payment attributable to an income tax that applies exclusively to income from a trade or business and is not a tax of general application.

(g) *When credit or offset deemed allowed.* For purposes of a return of information under this section, a credit or offset is deemed to be allowed when the liability to pay or credit such amount is admitted by the State or local taxing jurisdiction. Thus, if an amount with respect to a taxpayer's 1982 taxable year is credited in 1983 to reduce the liability of the taxpayer in 1984, it is reportable as income for 1983. It is not reportable in the taxable year that gives rise to the refund, credit or offset, nor in the taxable year when the liability against which the credit is applied arises.

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 of the following year. Returns shall be filed with the appropriate Internal Revenue Service Center, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081–1.

(i) *Use of magnetic tape.* For rules relating to permission to submit the information required by this section on magnetic tape or other media, see § 1.9101–1.

(j) *Voluntary information exchange agreements.* The requirements of reporting information to the Internal Revenue Service under this section may be satisfied for any calendar year by submission of the information required under paragraph (f) of this section in accordance with the terms of a voluntary information exchange agreement between the State and the United States in effect during such year.

(k) *Requirement and time for furnishing statements to recipients*—(1) *Requirement for furnishing statements.* Every refund officer required to make a return of information under this section shall furnish to the individual whose identifying number is required to be shown on the return a written statement showing the aggregate amount shown on the information return of refunds, credits and offsets made or allowed to such individual with respect to each taxable year of the individual, the name of the State or local taxing jurisdiction paying such refund or allowing such credits or offsets, the taxable year giving rise to the refund, credit or offset and a legend stating that such amount is being reported to the Internal Revenue Service. The requirement of this paragraph may be met by furnishing to the individual a copy of the Form 1099 filed with respect to that individual provided that the form bears a legend stating that such amount is being reported to the Internal Revenue Service. For purposes of this paragraph, a statement shall be considered to be furnished to an individual if it is mailed to the individual at the individual's last known address.

(2) *Time for furnishing statements.* The statement required under this paragraph shall be furnished after December 31 of the year in which the refund is paid or credit or offset is allowed, and on or before January 31 of the following year.

(3) *Extensions of time.* For good cause shown upon written application of the refund officer, the service center director may grant an extension of time not exceeding 30 days in which to furnish statements under this paragraph. The application shall be addressed to the Service Center with which the Forms 1099 required under this section are required to be filed and shall contain a concise statement of the reasons for requesting the extension to aid the service center director in determining the period of the extension, if any, which will be granted. The application shall state at the top of the first page that it is made under this section and shall be signed by the refund officer. In general, the application shall be filed after September 30 of the year in which the refund is paid or credit or offset is allowed, and before January 15 of the following year.

(l) *Effective date.* This section applies to payments of refunds, and credits and offsets allowed, after December 31, 1982.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it first under the notice and comment procedure under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 6050E and 7805 of the Internal Revenue Code of 1954 (96 Stat. 603; 68A Stat. 917; 26 U.S.C. 6050E and 7805).

Approved: September 1, 1983.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-25277 Filed 9-14-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; North Dakota

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

ACTION: Final rule.

SUMMARY: This final rule completes the administrative process for the adoption of a cooperative agreement between the Department of the Interior and the State of North Dakota for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota under the permanent regulatory program. Such a cooperative agreement is provided for by section 523(c) of the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: September 15, 1983.

ADDRESSES: Copies of the request by the State of North Dakota for the permanent program cooperative agreement, related information required under 30 CFR Part 745, and the complete administrative record of this rulemaking are available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding holidays, at the following address: Administrative Record R&I-07, Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Len Richeson, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone (202) 343-5866.

SUPPLEMENTARY INFORMATION: This preamble is divided into five parts in order to assist understanding of the process by which the Secretary decided to enter into a permanent program cooperative agreement with the Governor of the State of North Dakota. The notice is divided as follows:

I. Background
II. Director's Findings
III. Approval of the Cooperative Agreement
IV. Summary of the Cooperative Agreement and Disposition of Comments
V. Procedural Matters

Background

A. The State of North Dakota's Request. The purpose of this final rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of North Dakota which will give North Dakota primacy in the administration of its approved permanent regulatory program on Federal Lands in North Dakota. The State of North Dakota requested the cooperative agreement on November 14, 1980. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, allows for the State and the Secretary to enter into a permanent program cooperative agreement if the State has, as North Dakota does, an approved State Program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. *See* 30 CFR 934.10.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c) which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act." 30 U.S.C. 1273(c) (emphasis added). The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR 745.

The Secretary's regulations at 30 CFR 745.11(b)(1) through (3) require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State Program. The State of North Dakota submitted a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on November 14, 1980. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the North Dakota Public Service Commission (Commission), was described as appearing in volume 1 of North Dakota's Proposed Permanent Coal Program Text. *See* 30 CFR 745.11(b)(1). In addition, a written certification from the chief legal officer of the Commission concluded that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Commission to fully comply with section 523(c) of the Act, as implemented by 30 CFR Part 745. *See* 30 CFR 745.11(b)(3).

B. Federal Rulemaking. On June 21, 1982, the Office of Surface Mining (OSM) published a notice of proposed rulemaking and public hearing (47 FR 26769) on the proposed cooperative agreement. A public hearing was held on August 10, 1982, in Bismarck, North Dakota. Final revisions of the text based on comments received at the public hearing and on written comments received during the public comment period are discussed in Part IV, Summary of the Cooperative Agreement and Disposition of Comments.

II. Director's Findings

Under 30 CFR 745.11(f), the Director, OSM, must make the following three findings before recommending to the Secretary that the Department of the Interior enter into a cooperative agreement with a State.

Finding No. 1: The Director finds that the State of North Dakota has an approved State Program which was conditionally approved by the Assistant Secretary on December 9, 1980. It became effective upon publication in the **Federal Register** on December 15, 1980, 45 FR 82214.

Finding No. 2: The Director finds that the State regulatory authority has sufficient budget, equipment and personnel to enforce fully the State's statutes and regulations for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota. The Director makes this finding based on information obtained in the processing of grants to the State of North Dakota.

Finding No. 3: The Director finds that the State of North Dakota has the legal authority to administer the cooperative agreement. This finding is made based on written certification of the chief legal officer of the Commission and

conditional approval of the State's permanent regulatory program.

These findings were reported to the Secretary in a decision memorandum dated July 15, 1983, in which the Director, Office of Surface Mining (Director) recommended approval of the cooperative agreement.

III. Approval of the Cooperative Agreement

Based upon the conditional approval of the North Dakota State Program, the administrative record of this rulemaking, including written and oral comments and the public hearing, and the findings and recommendations of the Director, the Secretary decided to approve a permanent program cooperative agreement for the State of North Dakota. The cooperative agreement was signed on August 11, 1983, by the Secretary of the Interior and on August 30, 1983, by the Governor of the State of North Dakota and the members of the Commission. By its terms, the agreement becomes effective upon publication as final rulemaking in the **Federal Register.**

IV. Summary of the Cooperative Agreement and Disposition of Comments

Each Article of the agreement is summarized below, along with the Department's disposition of any comments received. Unless indicated otherwise, the text is the same as that in the proposed rule except for minor editorial changes.

Article I: Introduction and Purpose

This Article sets forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the cooperative agreement are also listed.

One comment was received concerning the provision in Article I.B. which states that the purpose of the cooperative agreement is to ". . . (3) provide uniform and effective application of the State and Federal Lands Programs on all non-Indian lands in North Dakota." The commenter stated that the provisions of section 523(c) of the Act simply allow a State having an approved State Program to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. The commenter said that section 523(c) does not require a State to implement both the State Program and a Federal Lands Program on State land upon entering into a cooperative agreement, and that such a requirement would be counter-productive to the intent and purpose of section 523(c).

OSM agrees with the comment and has modified the final rule by deleting the phrase "and Federal Lands." The phrase now reads ". . . (3) provide uniform and effective application of the State Program on all non-Indian lands in North Dakota." It should be understood, however, that there are other requirements which apply to Federal lands in addition to the requirements contained in the State Program. These additional requirements, discussed further on, are not eliminated or superseded by application of the State Program to Federal lands.

Article II: Effective Date

This Article provides that the cooperative agreement is effective following signing by the Secretary, the Governor, and the Commission, and upon publication as a final rule in the **Federal Register.** It will remain in effect until terminated as provided in Article X.

On the effective date of the cooperative agreement, authority passes to the State, including authority to process permit applications filed prior to the effective date of the cooperative agreement. OSM will continue to assist in the processing of permit applications pending on the effective date of this cooperative agreement in order to assure an orderly transition. The level of assistance necessary will be determined by the State and OSM. Existing Federally issued permits transfer "as is" to being State permits; the State can process revisions as needed to meet State Program requirements.

One commenter requested that the cooperative agreement not be promulgated until after the promulgation of the Federal lands regulations, 30 CFR 740–746, proposed on June 9, 1982 (47 FR 25092). The commenter stated that the provisions in the cooperative agreement are so inextricably related to the language used in the proposed Federal lands regulations that it would be an ineffective use of resources to finalize the cooperative agreement before promulgating the Federal lands regulations.

In response to the commenter, the Federal lands regulations were published in the **Federal Register** on February 16, 1983 (48 FR 6912) and became effective on March 18, 1983.

Article III: Scope

Article III provides that, in accordance with the Federal lands program in 30 CFR Part 740, the laws, rules, terms and conditions of North Dakota's State Program are applicable to Federal lands in North Dakota except as otherwise stated in the cooperative agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. This provision is consistent with the Federal lands program (30 CFR 740.11(a)) in adopting the North Dakota State Program as substantive Federal law enforceable by the State and the United States on Federal lands in North Dakota. This provision would also specifically implement section 523(a) of the Act, which provides that "(w)here Federal lands in a State with an approved State Program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Excluded from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

Language has been added to Article III which allows the State, when acting as the regulatory authority, to have its appealable decisions and orders reviewed by the State reviewing authority, which is the Commission. Decisions and orders issued by non-secretarial officials of the Department are still appealable to the Department's Office of Hearings and Appeals.

Comments were received on the provision in Article III which states that "(t)his Agreement makes the laws, rules, terms, and conditions of North Dakota's Permanent State Program applicable to Federal lands. . . ." The commenter stated that the cooperative agreement should not be finalized without specifically mentioning that the State Program was conditionally approved and that there are minor deficiencies in the State Program which must be corrected.

OSM has not accepted this comment. OSM believes that the reference in Article III to the conditions of the State Program is sufficient acknowledgement that the approval of the State Program was conditioned upon the State correcting certain deficiencies in its program which were identified when the program was conditionally approved. *See* 45 FR 82245, December 15, 1980, and 30 CFR 934.11.

The same commenter suggested that Article III should clearly state that the thirteen deficiencies in North Dakota's program shall not apply to the cooperative agreement; rather, the recommended remedies to these deficiencies, as delineated in the conditional approval should apply. In the absence of this clarification, the commenter recommended that the cooperative agreement not be finalized until North Dakota satisfied the conditions.

OSM declines to adopt the comment. Conditional approval of a state program is provided for by 30 CFR 732.13(i). The Secretary may conditionally approve a State Program where the program is found to have minor deficiencies, provided:

(1) The deficiencies are of such a size and nature so as to render no part of a proposed State Program incomplete;

(2) The State has initiated and is actively proceeding with steps to correct the deficiencies;

(3) The State agrees in writing to correct such deficiencies within a time established and stated in the conditional approval; and

(4) The conditionally approved State Program shall terminate if the deficiencies have not been corrected by the date set forth in the Secretary's decision under paragraph (i)(3) of 30 CFR 732.13.

Prior to conditionally approving the North Dakota State Program, OSM determined that the deficiencies were of such a size and nature as to render no part of the North Dakota Program incomplete and that they would not directly affect environmental performance at coal mines. Further, the State agreed to remedy the deficiencies and is actively doing so. Given the above, and the fact that OSM has retained the right to conduct inspections on Federal lands without prior notice to the State, OSM is confident that there are adequate safeguards and, therefore, that there is no need to modify the State Program as it applies to Federal lands.

Article IV: Requirements for Cooperative Agreement

This Article mutually binds the Commission and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in Article IV. The responsible agency in the State of North Dakota for purposes of administering this cooperative agreement is the Commission, which has and must continue to have authority under State law to carry out the cooperative agreement.

Article IV also provides that the State may be reimbursed pursuant to section 705(c) of the Act if the cooperative agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State Program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expanded to regulate surface coal mining and reclamation operations on the Federal lands within the State. *See* 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and the Commission will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State Program.

The Article also deals with reports and records, personnel, the use of equipment and laboratories and permit application fees.

Paragraph D of Article IV requires the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph D also provides for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph E of Article IV requires the Commission to maintain the necessary personnel to fully implement this agreement.

Paragraph F of Article IV requires the Commission to ensure itself of access to the necessary equipment, laboratories, and other facilities to perform inspections and other analyses required to carry out the requirements of the agreement.

Paragraph G of Article V provides that the amount of fees charged to permit applicants be determined in accordance with North Dakota's approved State program. These fees and civil penalties collected will be retained by the State and used in accordance with Federal requirements for the disposal of program income received from Federal grant recipients. Federal guidelines for the disposal of program income are found in OMB Circular No. A-102 (Uniform Requirements for Assistance to State and Local Governments), Attachment E (Program Income).

One comment was received concerning the provisions in Article IV.C. pertaining to funding and personnel. The commenter suggested that the cooperative agreement was in violation of section 523(c) of the Act. Section 523(c) provides that the Secretary may approve a cooperative agreement with the State" * * * provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement * * *." The commenter suggested that the Secretary must make this finding before he enters into the cooperative agreement.

OSM disagrees. Section 705(c) of the Act allows the Secretary to increase the grant to the State by an amount which he determines is approximately equal to the amount the Federal government would have expanded to do the work which the State will perform under the cooperative agreement. OSM believes that by signing the coopearative agreement, the Secretary is agreeing to fund the State for the work that is contemplated by the cooperative agreement. This constitutes knowledge by the Secretary of sufficient funding and personnel as required by section 523(c). If, as the commenter suggested, the State were required to have the funds appropriated by its legislature and personnel hired by the State before the Secretary, Governor, and the Commission sign the cooperative agreement, this would result in the State having to appropriate funds and hire staff for the mere possibility of a cooperative agreement. This would be an unreasonable interpretation of the Act.

The same commenter also suggested that the public must be allowed to comment on the adequacy of funds given to the State for the implementation of the cooperative agreement.

OSM declines to adopt the suggestion. OSM does not believe that every decision it makes in connection with a cooperative agreement must be made in a public forum simply because a cooperative agreement is promulgated as a rule. At all times, the requirements of the Act and the cooperative agreement will be complied with. This, however, does not mean that the agency's deliberative process must be open to public participation prior to decision. In addition, as noted above, OSM has agreed in Article IV to increase the State's grant by an amount equal to that which OSM would have spent in regulating surface coal mining on Federal lands in North Dakota. This should constitute adequate funding.

Article V: Policies and Procedures for Review of a Permit Application Package or an Application for a Permit Renewal or Revision

Under this Article, an operator on Federal lands will be required by the Commission and the Secretary to submit a permit application package or an application for a permit renewal or revision in an appropriate number of copies to the Commission and OSM. The term "permit application package," used throughout the cooperative agreement

beginning in this Article, is defined at 30 CFR 740.5. It includes the requirements of the Mineral Leasing Act of 1920, implemented by the 30 CFR Part 211 regulations, and the requirements of the Act for a surface coal mining permit, implemented by 30 CFR Part 740. The permit application package is to be in the form required by the Commission and to contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the permit application package must include the necessary information for the Commission and the Department, acting within their statutory authority, to make a determination of compliance with the State Program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations.

Paragraphs 1 through 6 of Article V.B. describe the procedures for the cooperative review and analysis of permit application packages on Federal lands in North Dakota. The Cooperative agreement identifies the Commission as primarily responsible for the analysis, review, and approval of the permit application. In assuming primary responsibility, the Commission will prepare a technical-environmental analysis of the permit application which will form the basis for the Commission's decision on whether to approve or disapprove the permit application. OSM will assist in the preparation of this analysis as requested. The Commission will also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal or Federal determinations except those concerned exclusively with the 30 CFR Part 211 regulations will be channeled to the operator through the Commission. This, however, will not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities.

OSM, at the request of the Commission, will assist as possible in the review of the permit application and provide technical assistance to the Commission. Copies of any correspondence with the applicant, as well as any information OSM receives from the applicant will be provided to the Commission. OSM will coordinate with all appropriate Federal agencies to ensure timely funneling of analyses and conclusions to the Commission. OSM will also prepare the decision document on the mining plan for the Secretary's consideration. This decision document will include: a technical-environmental analysis of the proposed mining operation, prepared by the State; all other written findings required by the approved State Program; a NEPA compliance document, prepared by OSM based on the technical-environmental analysis prepared by the State; and concurrences from appropriate Federal agencies.

The Secretary is required to review and approve the elements of the permit application package relating to the Mineral Leasing Act and other elements such as cultural resources, post-mining use of Federal land, and Federal compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, which are required by Federal law and cannot be delegated to the Commission. Even though the permit is issued by the Commission, mining may not commence until the Secretary approves the mining plan and these other elements of the permit application package. If a permit is issued prior to Secretarial approval, the Commission reserves the right to modify or rescind the permit to conform with the Secretary's decision.

OSM has modified Article V.B., paragraph 6 to indicate that OSM will prepare the decision document for the Secretary. As originally proposed, the Commission was to have prepared a draft decision document, transmit it to OSM for comment, and then prepare the final decision document after reviewing OSM's comments The revised procedure is in accord with the system for decision document preparation used in other States with cooperative agreements. OSM preparation of the decision document will essentially consist of incorporating the NEPA compliance document with documents prepared by other Federal agencies and by the Commission. Paragraph 6 has also been modified to clarify that the Commission will issue the permit required by section 506 of the Federal Act in accordance with its approved State Program.

Paragraph 7 of this Article is included in the cooperative agreement pursuant to North Dakota Administrative Code 69-05.2-10-06, which deals with the issuance of permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations on lands where the surface state is non-Federal and non-Indian and the mineral estate is Federal and unleased. The Secretary's conditional approval of the State Program on December 15, 1980 (45 FR 82214), stated that this provision of the State Act was not included in the conditional approval but would be considered later in the promulgation of a State-Federal cooperative agreement.

Paragraph 7 provides that the Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mining plan on lands where: (a) The surface estate is non-Federal and non-Indian; (b) the mineral estate is Federal and any Federal coal is unleased; (c) the Commission consults with the Bureau of Land Management through OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate; and (d) the proposed surface disturbances are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

Paragraphs 8 and 9 of this Article deal with the issuance of permit renewals and revisions. The paragraphs specify that the Commission will issue all permit renewals or revisions in consultation with OSM, where necessary. This includes authority to issue permit renewals or revisions for permits issued when the Department was the regulatory authority. Permit revisions or renewals found to be an alteration to the existing mining plan will have to be reviewed according to the procedures specified in this Article for permit application packages.

Paragraph 10 deals with the resolution of differences which may develop during the review of permit application packages. The paragraph specifies that when agreement cannot be reached on the final actions to be taken by the Commission and the Department, the matter will be referred to the Governor and the Secretary for resolution.

Several comments were received concerning this Article. One commenter objected to the permit application package concept and stated that the cooperative agreement should not combine the requirements of OSM's regulations with those in 30 CFR Part 211. The commenter suggested that the cooperative agreement deal exclusively with the requirements of the Federal Act.

OSM declines to adopt this suggestion because it is necessary to define for a potential operator the entire package of materials that he or she must submit. The permit application package concept will not result in confusion of either the components of the permit application package or the distinct review and

concurrent approval responsibilities of, among others, the State, the Bureau of Land Management, OSM and the Secretary. It merely defines what a potential operator must submit. The two key components of a permit application package for proposed mining of leased Federal coal—the permit application and the resource recovery and protection plan—will be processed by the regulatory authority and the Bureau of Land Management, respectively.

One commenter questioned the authority for allowing the Commission to be the primary authority for the analysis, review and approval of permits, permit revisions or permit renewals. The commenter pointed out that 30 CFR Part 741 specifies that both the Commission and OSM have concurrent responsibility for approval of permits, permit revisions, and permit renewals, and suggested that this requirement be followed in the cooperative agreement. The commenter stated that if the Commission were allowed to approve permits, appeals would then have to be filed with the State and not with the Department's Office of Hearings and Appeals.

OSM has declined to adopt the suggestion and has retained the concept of having the Commission approve the permit. Since the proposed cooperative agreement was published in the **Federal Register** on June 21, 1982, the Federal lands regulations have been revised. *See* 48 FR 6912, February 16, 1983. Unlike the previous Federal lands regulations in 30 CFR Part 741 which required approval of permits by OSM and the State, the revised regulations allow States with cooperative agreements to process SMCRA permits and approve or disapprove permits for surface coal mining and reclamation operations on Federal lands. The cooperative agreement is consistent with the revised Federal lands regulations.

One commenter wanted assurance that the Commission, when approving permits, would require the operator to control wastes that could degrade water quality in National Park areas and control emissions so that air quality is not deteriorated.

The Secretary believes that the air and water protection requirements of North Dakota's approved State Program are fully adequate to protect both the water and air quality, in accordance with the requirements of the Federal Act.

One commenter suggested that Article V be restructured to more clearly delineate the respective responsibilities of the Commission, OSM, and the Bureau of Land Management and to clarify the permit-mining plan approval process.

OSM has reviewed the language in Article V, and believes that it delineates the responsibilities as clearly as is possible given the complex interrelationship between the permit and the mining plan. As was explained above, under the cooperative agreement the Commission will issue the permit while the Secretary will approve the mining plan. The permit and the mining plan are distinct documents although they are based on some common elements. The approval of the permit by the Commission is based on the Commission's review of those elements of the permit application package required by the approved State Program. The approval of the mining plan is based on the decision document prepared by OSM. The decision document will include: a technical-environmental analysis of the proposed mining operation prepared by the State; all other written findings required by the approved State Program; a NEPA compliance document, prepared by OSM based on the technical-environmental analysis prepared by the State; and concurrences from appropriate Federal agencies. Under the cooperative agreement, the Secretary need not review or concur with the Commission's decision to approve the permit since authority for permit approval has been delegated to the State. The Secretary intends to rely on the State's implementation of the requirements and standards of the approved State Program. The Secretary will review those elements of the decision document for which responsibility has not been delegated to the State to the degree needed to insure that his decision for approval or disapproval of the mining plan is based on accurate and complete information.

The same commenter believed that the cooperative agreement required the permit to be issued before the mining plan is approved by the Secretary and suggested that they be issued as contemporaneously as possible.

OSM disagrees with the commenter's interpretation of the cooperative agreement but agrees that the permit and the mining plan should be approved as contemporaneously as possible. It is the intent of the cooperative agreement that the permit and mining plan be approved by the Commission and the Secretary respectively, as contemporaneously as possible. However, because of the time required to prepare a NEPA compliance document, it is possible for the permit to be issued by the Commission before the mining plan is approved by the Secretary.

The same commenter stated that the exact information required to be submitted in order to have a complete permit application package and to comply with the laws, Executive Orders, and regulations listed in Appendix A is unclear. The commenter requested more specificity. The commenter suggested that the informational requirements of the State Program comprise an exhaustive listing of all information needed to be met by the operator for a permit and if there are additional informational requirements under other Federal laws they should be incorporated into State law and regulations rather than appearing independently in the cooperative agreement.

OSM does not agree. More specific data as to the informational requirements can be obtained by referring to the Federal lands regulations. *See* 30 CFR 740.13(b). Since there are requirements for mining on Federal lands in addition to the requirements in the State Program, it is necessary to specify these in the cooperative agreement. Such requirements cannot be incorporated into the State Program because they are based on Federal responsibilities which the State would have no authoritry to enforce.

One comment was received concerning the requirement that the permit application package contain sufficient information for the Commission and the Secretary to make a determination of compliance with the laws and regulations listed in Article V.A. The commenter questioned the Commission's statutory authority to make a determination of compliance with either the 30 CFR Part 211 regulations or the requirements listed in Appendix A.

OSM agrees that the Commission's authority is limited to approval of the permit under its State Program and notes that the Secretary's approval authority is also limited in that he can take no action under North Dakota's laws and regulations. To clarify this, the phrase "acting within their statutory" authority has been added to the last sentence of the section. Under the cooperative agreement, the Commission is not responsible for determining compliance with the 30 CFR Part 211 regulations, the terms of the Federal coal lease, or the laws listed in Appendix A. That is the responsibility of the Department, and the cooperative agreement does not intend or purport to change that.

One commenter requested clarification concerning the statement in the preamble to the proposed rule that responsibility for post-mining land use remains with the Department.

Departmental responsibility for post-mining land use is limited to those situations where the surface of the mining operation is Federally owned. The Department is not responsible for post-mining land use when the surface is privately owned.

As originally proposed, paragraph 7(c) stated that the Commission would "consult with OSM." This has been changed to "consults with the Bureau of Land Management through OSM" to insure that the proper consultation requirements with the Bureau of Land Management are carried out.

One commenter approved of the provisions of paragraph 7, but requested clarification concerning the word "adjacent" in paragraph 7(d), which refers to "proposed surface disturbances which are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands." The commenter stated that the word "adjacent" can mean either "near or close" or "adjoining." The commenter suggested that the word should be interpreted as having the former meaning because of the nature of operations in the State resulting from the land ownership patterns.

OSM agrees with the comment and intends the word "adjacent" to mean "near or close to" when the mining operation should logically be considered as an integrated whole.

One commenter questioned the authority for the provision in Article V.B.7. allowing the State to issue permits without the need for an approved mining plan.

An approved mining plan is required by the Mineral Leasing Act of 1920 if the coal to be mined is leased Federal coal. Because the coal to be mined in paragraph 7 is not Federally-owned, there is no need for a mining plan.

As originally proposed, paragraph 9 specified that only permit revisions which were "a significant alteration or addition to the approved mining plan" need be reviewed according to the procedures for review of permit application packages" specified in Article V. Insignificant alterations to the existing mining plan were to be reviewed and approved or disapproved by the Commission. The final rule has been changed to be consistent with the revised Federal lands regulations in 30 CFR Part 740. The final rule provides that the Commission will inform OSM or the Federal land management agency of each permit revision request for surface coal mining and reclamation operations on Federal lands.

With respect to permit revision requests for surface coal mining and reclamation operations on Federal lands containing leased Federal coal, the Commission will approve such requests. However, before any operations pursuant to any request can commence, the Secretary must: (1) Determine whether the revision request constitutes a mining plan modification, and (2) approve the mining plan modification where necessary. Permit revision requests on Federal lands not containing leased Federal coal can be approved by the Commission in consultation with the Federal land management agency. Thus, the final rule insures that the Secretary's responsibilities for the approval of mining plan modifications are preserved on Federal lands containing leased Federal coal, and that proper coordination with the Federal land management agency occurs on other Federal lands.

One comment was received concerning the language in paragraphs 8 and 9 wherein it is stated that the Commission may issue permit renewals and revisions for permits approved by the Secretary "prior to the effective date of this Agreement." The commenter suggested that the phrase "prior to the effective date of this Agreement" be deleted.

OSM has adopted the comment. Paragraphs 8 and 9 have been modified by deleting the phrase "prior to the effective date of this Agreement." The language was deleted in order to eliminate any doubt that the Commission has the authority to issue permit revisions and permit renewals for permits issued by the Department including those issued after the effective date of the cooperative agreement should the occasion arise.

One comment was received concerning paragraph 10 which deals with the resolution of differences. The paragraph specifies that when the Commission and OSM cannot resolve differences that develop during permit application package review or cannot agree on the final actions to be taken by the Commission and the Department, the matter will be referred to the Governor and the Secretary. The commenter suggested that the paragraph be changed to require that decision-making by the Secretary and the Governor be concurrent, particularly in disputes arising during the permit approval process.

OSM assumes that the intent of the comment is to require concurrent approval of permits. As was previously stated, the Commission can approve permits without the concurrence of the Department. This is the procedure the Department believes was intended by the Act when it granted the Secretary authority to enter into cooperative agreements. Consequently the Department declines to adopt the suggestion.

Article VI: Inspections

This Article specifies that the Commission must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this Article include designation of the Commission as the primary point of contact with the operator, and a provision for notice to the State prior to a Federal inspection following a citizen complaint, if circumstances and time permit. This Article preserves the right of the Department to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to the Commission, to evaluate the manner in which the cooperative agreement is being carried out and to insure that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of this cooperative agreement is not affected. In particular, this Article preserves the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 842 and 30 CFR 740.17 as 30 CFR 740.17 relates to obligations under laws other than the Federal Act.

This Article also provides that personnel of the State and the Department will be mutually available to serve as witnesses in enforcement actions taken by either party.

One commenter stated that this Article should be rewritten because it designates the Commission as the primary inspection authority but gives OSM substantial authority to conduct inspections. The commenter stated that this perpetuates the duality of administration which the cooperative agreement is intended to eliminate and, further, that it dilutes the authority being transferred to the State. The commenter suggested that the Article be rewritten so that the inspection role of OSM would be limited to that of an evaluator or auditor.

After reviewing the language in the Article, OSM declines to adopt the suggestion although OSM generally agrees with the commenter's view of the role of OSM in inspections. If the language were modified as suggested to limit OSM's role to that of an evaluator

or auditor, the language would be far too restrictive. As now written, the language clearly indicates that the Commission will be the lead inspection authority. OSM's principal role is that of an evaluator. For oversight and emergency situations, however, OSM must have immediate and unrestricted access to mining operations. This access is insured by the more flexible language.

Article VII: Enforcement

Article VII sets forth the enforcement obligations and authorities of OSM and the Commission. The Commission has primary enforcement authority on Federal lands, in accordance with the requirements of the cooperative agreement and the approved State Program. The Article also specifies that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act is preserved, as is OSM's authority to take enforcement action to comply with 30 CFR Parts 843 and 845. In taking such action, OSM will apply the performance standards contained in the approved State Program, but will use the Federal procedures and penalty system.

One commenter stated that this Article should be rewritten because it designates the Commission as the primary enforcement authority but reserves substantial authority for OSM. The commenter stated that this perpetuates the duality of administration which the cooperative agreement is intended to eliminate and, further, that it dilutes the authority being transferred to the State. The commenter suggested that the Article be rewritten so that the role of OSM would be limited to that of an evaluator or auditor.

OSM disagrees. The intent of the Article is to make the Commission the primary enforcement authority, with OSM's principal role being that of an evaluator or auditor. The language in the final rule was purposely left flexible in order to insure that OSM may take enforcement action if the necessity arises.

Article VIII: Bonds

Under this Article, the Commission will require each operator to submit a single performance bond, payable to the State and the United States, to meet both Federal and State requirements. The Commission must obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond for surface coal mining and reclamation operations on Federal lands containing leased Federal coal. For surface coal mining and reclamation operations on other Federal lands, the cooperative agreement provides for the Federal land management agency to concur in the bond release.

In addition to a performance bond, an operator is required to furnish a lease bond and a lessee protection bond. Bonding requirements of the Mineral Leasing Act and other Federal laws appear at 30 CFR 740.15 and 43 CFR Subpart 3474.

The final rule has been modified to specify that if the cooperative agreement is terminated, the bond will continue in effect, and to the extent that Federal lands are involved, will be payable to the United States. In the situation of a mine on intermingled Federal and non-Federal lands, this approach will allow both the State and the Federal Government to collect under the bond without requiring the consent of the other party. The proposed rule was silent on this point.

No comments were received on this Article.

Article IX: Designation of Lands as Unsuitable

This Article describes the roles of the Commission and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable is reserved to the Secretary or his designated representative. *See* 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

One commenter was concerned with the possibility of mining within units of the National Park System in North Dakota and stated that this Article should specify that units of the National Park System in North Dakota are closed to mining, and, further, that they should be designated as unsuitable for mining.

OSM believes it is unnecessary to modify the Article in view of section 522(e) of the Act, the requirements of 30 CFR 761.11, and the approved State program. The Act, OSM regulations, and the State program contain requirements that ensure the protection of Federal lands within units of the National Park System in North Dakota.

Article X: Termination of Cooperative Agreement

Proposed Article X specified three ways in which the cooperative agreement could be terminated: (1) By the Commission upon written notice to the Secretary; (2) by the Secretary after public notice, public hearing, and opportunity for the State to take remedial action; and (3) by operation of law (when the cooperative agreement is no longer authorized by Federal or State law or upon withdrawal of the Secretary's approval of the State Program pursuant to 30 CFR Part 733). The final rule includes a fourth way in which the cooperative agreement can terminate. The agreement can terminate at any time upon mutual agreement by the Secretary and the Commission.

No comments were received on this Article.

Article XI: Reinstatement of Cooperative Agreement

Article XI provides for reinstatement of the cooperative agreement upon application by the Commission and the submission of evidence to the Secretary that the Commission can and will comply with all of the provisions of the agreement.

No comments were received concerning this Article.

Article XII: Amendment of Cooperative Agreement

Article XII provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.11.

No comments were received concerning this Article.

Article XIII: Change in State or Federal Standards

This Article recognizes that the Secretary or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. Such changes are to be made in accordance with 30 CFR Part 732 for changes to the State Program and section 501 of the Act for changes to the Federal lands program. The Article also provides that "OSM and the Commission shall immediately inform each other of any final changes to their respective laws or regulations, as provided in 30 CFR 732."

One commenter suggested that the word "final" be changed to "proposed," and that the Article be reworded to require the public notice and opportunity for comment be affored before any revisions are implemented.

OSM believes such a change is unnecessary and has declined to adopt the comment. Any amendments to the cooperative agreement will be made through rulemaking which must include public notice and the opportunity for public comment. *See* 30 CFR 745.14. The same is true for amendments to the State Program. *See* 30 CFR 732.17. The provisions in article XIII requiring notice

to either party of any "final" change is designed to insure that each party is kept informed of current developments in the substantive rules governing surface coal mining. It does not alter the requirements for public notice and an opportunity to comment during rulemaking.

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article provides that the State and the Department must advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement.

No comments were received concerning this Article.

Article XV: Reservation of Rights

Article XV recognizes that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV states that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to the terms of this Article, the Secretary reserves authority and responsibility for several Mineral Leasing Act functions, including the release of Federal lease bonds and the approval of mining plans on Federal lands. The Secretary also retains authority for the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations. Other specific reservations are listed in 30 CFR 745.13.

The Department of the Interior also reserves the authority and responsibility for several specific functions which are an integral part of the permit application review procedures discussed earlier. These items include, but are not limited to, compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.;* compliance with section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f; and compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977).

Compliance with NEPA

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations, and the Department's own NEPA guidelines. *See* 40 CFR 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). *See* also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a mining plan on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved to the Secretary, so long as the Department is sufficiently involved in the preparation of the NEPA document to form an independent judgment of the environmental impacts of the proposed action.

One commenter stated that the approval by the Secretary of the mining plan does not authorize any disturbance of the land and, therefore, there is no Federal action affecting the environment. Consequently NEPA compliance is not required.

OSM disagrees. The Secretary's action on a mining plan is a Federal action within the meaning of NEPA. Since mining may not commence until after mining plan approval, NEPA compliance is required.

The Endangered Species Act (16 U.S.C. 1536)

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species' critical habitat. 16 U.S.C. 1536. *See* 50 CFR 402 (regulations on inter-agency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

The National Historic Preservation Act (16 U.S.C. 470f)

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation (Council).

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Federal agencies must take measures to insure that, in conjunction with proposed undertakings, they fulfill their responsibilities under section 106 of the National Historic Preservation Act of 1974, and that the Council is given an appropriate opportunity to comment on proposed plans.

These responsibilities are reserved to the Secretary under the cooperative agreement since they are not "expressly addressed" (Article XV).

Floodplain Management and Wetland Protection

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). *See* 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that **Federal Register** notice at 45 FR 49872–73. As noted therein, the method and responsibility for compliance with these two Orders is to be a subject of

the permanent program cooperative agreements under 30 CFR Part 745.

Since the cooperative agreement with North Dakota does not directly discuss compliance with these Orders, the obligation for compliance with them remains with the Secretary and is not delegated to North Dakota.

Article XVI: Definitions

This Article specifies that the terms and phrases used in the cooperative agreement, which are defined in 30 CFR Parts 700, 701, and 740, are to be given the meaning set forth in said definitions. It should be noted that the term "Federal lands" does not include "Indian lands."

No comments were received concerning this Article.

V. Procedural Matters Required for Promulgation of This Rule.

1. Executive Order 12291 and Regulatory Flexibility Act

The Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the State of North Dakota will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies, or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It was concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by OSM's permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.G (Required by 30 CFR Part 735)	1029-0013
Article V.A (Required by 30 CFR Part 740)	1029-0026
Article V.B (Required by 30 CFR Part 740)	1029-0026
Article VI.A (Required by 30 CFR Part 745)	1029-0028
Article VIII.A (Required by 30 CFR Part 740)	1029-0026

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Justification for Immediate Effective Date

The Department of the Interior finds, in accordance with section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.)*, that good cause exists to make this final rule effective upon publication. Immediate implementation will result in the immediate elimination of dual administration of surface coal mining in North Dakota and thus result in efficiency and economy both to the State and the Federal Government as well as to operators. Article II of the proposed cooperative agreement with North Dakota stated that the cooperative agreement would become effective upon publication in the **Federal Register** as a final rule. No comments were received on this provision and it has been adopted as proposed.

List of Subjects in 30 CFR Part 934

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

Accordingly, Part 934 of Chapter VII, Title 30 is amended as set forth herein.

Dated: September 1, 1983.

William P. Pendley,

Deputy Assistant Secretary for Energy and Minerals.

PART 934—[AMENDED]

1. Section 934.30 is added to read as follows:

§ 934.30 State-Federal Cooperative Agreement.

Cooperative Agreement

This is a Cooperative Agreement (Agreement) between North Dakota (State) acting by and through the North Dakota Public Service Commission (Commission) and the Governor, and the United States Department of the Interior (Interior), acting by and through the Secretary of the Interior (Secretary) and the Office of Surface Mining (OSM).

Article I: Introduction and Purpose

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), Pub. L. 95-87, 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an Agreement for the regulation and control of surface coal mining on Federal lands, and by Chapter 38-14.1 of the North Dakota Century Code, Reclamation of Surface Mined Lands (State Act). This Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within North Dakota consistent with the State and Federal Acts and the Federal lands program (section 523(a) of the Federal Act and 30 CFR Chapter VII, Subchapter D).

B. *Purpose:* The purpose of the Agreement is to: (1) Foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the State Program on all non-Indian lands in North Dakota.

Article II: Effective Date

Following signing by the Secretary, the Governor, and the Commission, the Agreement shall take effect upon publication in the **Federal Register** as a final rule. This Agreement shall remain in effect until terminated as provided in Article X.

Article III: Scope

In accordance with the Federal lands program in 30 CFR Parts 740-746, the laws, rules, terms, and conditions of

North Dakota's Permanent State Program (Program) (conditionally approved effective December 15, 1980, 30 CFR 934.11 or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to Federal lands within North Dakota except as otherwise stated in this Agreement, the Federal Act, 30 CFR 745.13, or other applicable laws or rules and regulations. Orders and decisions issued by the Commission in accordance with the State Program that are reviewable shall be reviewed pursuant to section 38-14.1-30 of the North Dakota Century Code. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article IV: Requirements for Cooperative Agreement

The Commission and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Responsible Administrative Agency:* The Commission is, and shall continue to be, the sole agency responsible for administering this Agreement on behalf of North Dakota on Federal lands throughout the State. OSM shall administer this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII.

B. *Authority of State Agency:* The Commission has and shall continue to have authority under State law to carry out this Agreement.

C. *Funds:* The State will devote adequate funds to the administration and enforcement on Federal lands in North Dakota of the requirements contained in the Program. If the State complies with the terms of this Agreement, and if necessary funds have been appropriated, OSM shall reimburse the State as provided in section 705(c) of the Federal Act and 30 CFR 735.16, for costs associated with carrying out responsibilities under this Agreement. The grants procedures established in 30 CFR Part 735 are applicable to funding under this Agreement. Reimbursement shall be in the form of annual grants, and applications for grants shall be processed and grants awarded in a prompt manner.

If sufficient funds have not been appropriated, OSM and the Commission shall promptly meet to decide on appropriate measures that will insure that surface coal mining and reclamation operations are regulated in accordance with the Program.

D. *Reports and Records:* The Commission shall make annual reports to OSM pursuant to 30 CFR 745.12(d), containing information respecting its implementation and administration of the terms of this Agreement. The Commission and OSM shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OSM shall provide the Commission with a copy of any final evaluation report concerning State administration and enforcement of this Agreement.

E. *Personnel:* The Commission shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

F. *Equipment and Laboratories:* The Commission shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

G. *Permit Application Fees and Civil Penalty Assessments:* The amount of the fee accompanying an application for a permit shall be determined in accordance with section 38-14.1-13 of the State Act. All permit fees and civil penalty assessments collected by the State from operators on Federal lands shall be retained by the State and deposited with the State Treasurer. These funds shall be disposed of in accordance with Federal requirements in OMB Circular No. A-102, Attachment E. The financial status report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year.

Article V: Policies and Procedures: Review of a Permit Application Package or an Application for a Permit Renewal or Revision

A. *Contents of Permit Application Package:* The Commission and the Secretary will require that an operator proposing to mine on Federal land shall submit an identical permit application package in an appropriate number of copies to the Commission and OSM. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act (30 U.S.C. 181 *et seq.*) will be submitted directly to the Bureau of Land Management, Department of the Interior. The permit application package shall be in the form required by the Commission and include any supplemental information required by the Secretary. The permit application package shall satisfy the requirements of 30 CFR Chapter VII, Subchapter D and shall include the information required by, or necessary for, the Commission and the Secretary, acting within their statutory authority, to make a determination of compliance with:

(1) Chapter 38-14.1 and Chapter 38-18 of the North Dakota Century Code;

(2) Article 69-05.2 of the North Dakota Administrative Code (NDAC);

(3) Applicable terms and conditions of the Federal coal lease;

(4) Applicable requirements of the Bureau of Land Management's 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act; and

(5) Applicable requirements of other Federal laws and the Program, including but not limited to those in Appendix A of this Agreement.

B. *Review Procedures:* 1. The Commission shall assume primary responsibility for the analysis, review, and approval of permit applications required by 30 CFR Chapter VII, Subchapter D for surface coal mining on Federal lands in North Dakota. OSM shall, as requested, assist the Commission in this analysis and review.

2. The Commission shall be the primary point of contact for operators regarding the approval of the permit application package, except on matters concerned exclusively with the 30 CFR Part 211 regulations administered by the Bureau of Land Management. The Commission will be responsible for informing the applicant of all joint State-Federal or Federal determinations, except matters concerned exclusively with the 30 CFR Part 211 regulations. The Commission shall send to the Bureau of Land Management all correspondence with the applicant which may have a bearing on decisions regarding Mineral Leasing Act requirements. Except in exigent circumstances, OSM shall generally not independently initiate contacts with applicants regarding completeness or deficiencies of permit application packages with respect to matters which are properly within the jurisdiction of the Commission. The Commission may arrange for an operator to send written communications and documents regarding a permit application package directly to OSM. The Secretary reserves the right to act independently of the Commission to carry out his responsibilities under laws other than the Federal Act. A copy of any independent correspondence with the applicant required to carry out these responsibilities which may have a

bearing on decisions regarding the permit application package shall be sent to the State.

3. OSM is responsible for ensuring that any information OSM receives from an applicant regarding the permit application package is sent to the Commission and the Commission will send any information received from the applicant to OSM. OSM shall have access to Commission files for mines on Federal lands. OSM and the Commission shall regularly coordinate with each other during the permit application package review process.

4. OSM shall be responsible for obtaining, in a timely manner, the views of all Federal agencies with jurisdiction or responsibility over a permit application package on Federal lands in North Dakota and for making these views known to the Commission within 90 days of the receipt of the application by OSM. The Commission shall keep OSM informed of findings during the review which bear on the responsibilities of other Federal agencies. OSM shall take appropriate steps to facilitate discussions between the Commission and the concerned agencies wherever desirable to resolve issues or problems identified in the review.

5. Upon receipt of a permit application package, both OSM and the Commission shall each designate its application manager. The application managers shall serve as the primary point of contact between OSM and the Commission throughout the review process and shall be responsible for identifying areas of avoidable duplication of review and analysis, which shall be eliminated where possible. Not later than 15 days after an application has been received, OSM and the Commission shall discuss the application and agree upon a work plan and schedule for the review of the application. OSM shall thereafter inform the Commission of any specific or general areas of concern, including the scope of required environmental analyses under the National Environmental Policy Act, which require special handling or analysis. The Commission shall likewise inform OSM where OSM assistance will be needed to perform any specific or general analysis or prepare any studies or similar work.

6. The Commission shall prepare a technical-environmental analysis on the permit application package. Copies of drafts of this document shall be sent to OSM for review and comment. OSM shall independently evaluate the documents and inform the Commission within 30 days of any changes that should be made. The Commission shall consider the comments of OSM and send a final technical-environmental analysis to OSM which will form the basis for and be included in the decision document which OSM will prepare for the Secretary's consideration. The Commission shall approve or disapprove the permit application by written decision in accordance with the Program. The Secretary's decision on the mining plan and those other Federal responsibilities which cannot be delegated (including but not limited to those listed in Appendix A) shall be made concurrently with or as soon as possible after the final decision of the Commission on the permit. The permit issued by the Commission shall condition the initiation of surface coal mining operations on Federal lands within the permit area on obtaining mining plan approval from the Secretary. The Commission shall, in the approved permit, reserve the right to amend or rescind its action to conform with action taken, or with terms or conditions imposed, by the Secretary when approving the mining plan. After the Commission makes its decision on the permit, it shall send a notice to the applicant and OSM with a statement of findings and conclusions in support of the action.

7. The Commission may approve and issue permits, permit renewals, and permit revisions for surface disturbances associated with surface coal mining and reclamation operations, and disturbance of the surface may commence without need for an approved mining plan on lands where:

(a) The surface estate is non-Federal and non-Indian;

(b) The mineral estate is Federal and is unleased;

(c) The Commission consults with the Bureau of Land Management through OSM in order to insure that actions are not taken which would substantially and adversely affect the Federal mineral estate; and

(d) The proposed surface disturbances are planned to support surface coal mining and reclamation operations on adjacent non-Federal lands and this is specified in the permit, permit renewal, or permit revision.

8. Any permit renewal requested pursuant to applicable State laws and rules for a surface coal mining and reclamation operation on Federal lands, and for which a mining plan has been approved by the Secretary, shall be reviewed and approved or disapproved by the Commission in consultation with OSM for Federal responsibility under other laws. The Commission shall inform OSM and BLM of the approval or disapproval of the renewal and provide OSM and BLM with copies of the application documents.

9. The Commission shall inform OSM of each permit revision request with respect to surface coal mining and reclamation operations on Federal lands containing leased Federal coal. For other Federal lands, the Commission shall inform the Federal land management agency of each permit revision request. Surface coal mining and reclamation operations shall not occur pursuant to the revision unless the permit revision request has been approved by the Commission and:

(a) With respect to Federal lands containing leased Federal coal—

(i) The Secretary has determined that the permit revision does not constitute a mining plan modification, or

(ii) If the revision does constitute a mining plan modification, the modification has been approved by the Secretary.

(b) With respect to other Federal lands, the Commission has consulted with the Federal land management agency to ensure that the permit revision is consistent with Federal laws and regulations other than the Act.

10. When the Commission and OSM cannot resolve differences that develop during permit application package review or cannot agree on the final actions to be taken by the Commission and the Department, the matter shall be referred to the Governor and the Secretary for resolution.

Article VI: Inspections

The Commission shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the approved Program.

A. *Inspection Reports:* The Commission shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *Commission Authority:* The Commission shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes

other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met. OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to the Commission. In order to facilitate a joint Federal-State inspection, when OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact the Commission if circumstances and time permit, prior to the Federal inspection. The Department may conduct any inspections necessary to comply with 30 CFR Part 842 and 30 CFR 740.17 (as 30 CFR 740.17 relates to obligations under laws other than the Federal Act). If an inspection is made without Commission inspectors, OSM shall provide the Commission with a copy of the inspection report within 15 days after the inspections.

D. *Witness Availability:* Personnel of the State and the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VII: Enforcement

A. *Commission Enforcement:* The Commission shall have primary enforcement authority on Federal lands in accordance with the Program and this Agreement. During any joint inspection by OSM and the Commission, the Commission shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation. OSM and the Commission shall consult prior to issuance of any decision to suspend or revoke a permit.

B. *Notification:* The Commission and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce violations of laws other than the Federal Act. (2) During any inspection made solely by OSM or any joint inspection where the Commission and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the substantive standards included in the approved Program and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

Article VIII: Bonds

A. *Bond Coverage and Terms:* The Commission and OSM shall require all operators on Federal lands to submit a single performance bond to cover the operator's responsibilities under the Federal Act and the Program, payable to both the United States and North Dakota. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the performance bond shall be conditioned upon compliance with all applicable requirements. If this Agreement is terminated, the bond will continue in effect and to the extent that Federal lands are involved will be payable to the United States.

Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Federal Act.

B. *Bond Release:* The Commission shall obtain OSM's concurrence prior to releasing the operator from any performance bonding obligation required under the Program for any Federal lands containing leased Federal coal. For surface coal mining and reclamation operations on other Federal lands, the Commission shall obtain the concurrence of the Federal land management agency prior to releasing the performance bond. The Commission shall advise OSM of any release of and adjustments made to the performance bond.

C. *Forfeiture:* The operator's performance bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

Article IX: Designation of Lands as Unsuitable

The Commission and OSM shall cooperate in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition which could have an impact on lands the designation of which as unsuitable for mining would be the responsibility of the other agency, the agency shall: (1) Notify the other of its receipt of the petition and of the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other. The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

Article X: Termination of Cooperative Agreement

This Agreement may be terminated as follows:

A. *Termination by the State:* The Agreement may be terminated by the Commission upon written notice to the Secretary, specifying the date upon which the Agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

B. *Termination by the Secretary:* This Agreement may be terminated by the Secretary according to the following procedures:

1. A written notice from the Secretary to the Commission shall specify the grounds upon which he proposes to terminate the Agreement. In addition, a written notice containing the grounds for termination shall be published in the **Federal Register** affording the Commission and the public a minimum of 30 days for comment.

2. A written notice in the **Federal Register** and a local newspaper of general circulation shall also specify the date and place within the State of North Dakota where the Commission and the public shall be afforded the opportunity for a hearing. The date of such hearing shall not be less than 30 days from the date of publication in the **Federal Register**. Prior to the time fixed for public hearing, representatives of the Commission may be permitted to appear and confer in person with representatives of the Secretary and present oral or written statements, and any other documents relative to the proposed termination.

3. The proposed termination hearing shall be conducted by OSM and a record shall be made of the hearing. The Commission shall be entitled to have legal, and technical and other representatives present at the hearing, and may present, either orally or in writing, evidence, information, testimony, documents, records or materials as may be relevant to the issues involved.

4. The Secretary's decision shall be made after the hearing and close of the comment period.

5. A decison to terminate the Agreement may be made if the Secretary finds in writing that:

(a) The Commission has substantially failed to comply with the requirements of the Federal Act, 30 CFR Parts 740–746,

the Program, or provisions of this Agreement; or

(b) The Commission has failed to comply with any undertaking by the Commission in this Agreement upon which the approval of the Program, this Agreement, or grants by OSM for administration or enforcement of the Program or this Agreement were based.

6. The Secretary shall send written notice of the decision and findings to the Commission and publish notice of it in the **Federal Register.**

7. This Agreement shall terminate not less than 60 days after publication of the notice of the decision to terminate in the **Federal Register.** The Commission may remedy any failure during the 60-day period. If the Secretary determines that the State has taken effective remedial action, the Agreement will not terminate.

C. *Termination by Operation of Law:* This Agreement shall terminate by operation of law under either of the following circumstances:

1. When no longer authorized by Federal law or North Dakota laws and regulations; or

2. Upon termination or withdrawal of the Secretary's approval of the Program pursuant to 30 CFR Part 733.

D. *Mutual Termination:* This Agreement may be terminated at any time upon mutual agreement by the Secretary and the Commission.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated as provided in Article X, it may be reinstated upon application by the Commission and upon its giving evidence satisfactory to the Secretary that the Commission can and will comply with all the provisions of the Agreement and that the Commission has remedied all defects in administration for which this Agreement was terminated.

Article XII: Amendments To Cooperative Agreement

This Agreement may be amended by mutual agreement of the Commission and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted or rejected in accordance with the requirements of 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment and if rejected shall state the reason for rejection.

Article XIII: Changes in State or Federal Standards

A. *Time for Change:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement or administration procedures. OSM and the Commission shall immediately inform each other of any final changes in their respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the Program and section 501 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

The Commission and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. The Commission and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Article XVI: Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Part 700, 701 and 740 shall be given the meanings set forth in those definitions.

Approved:

James G. Watt,

Secretary of the Interior.

Dated: August 11, 1983.

Allen I. Olson,

Governor of North Dakota.

Dated: August 30, 1983.

Bruce Hagen,

President, North Dakota Public Service Commission.

Dated: August 30, 1983.

Leo M. Reinbold,

Commissioner, North Dakota Public Service Commission.

Dated: August 30, 1983.

Dale Sandstrom,

Commissioner, North Dakota Public Service Commission.

Dated: August 30, 1983.

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211 *et seq.*
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, and implementing regulations, including 36 CFR Part 800.
6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469, *et seq.*
10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protections.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C 351, *et seq.*, and implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State of North Dakota, State law, and rules.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83–25052 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD9-83-17]

Drawbridge Operation Regulations; Ontonagon River, Michigan

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Michigan Department of Transportation, the Coast Guard is revising the operating regulations governing the M-64 highway bridge, mile 0.2, across the Ontonagon River, Ontonagon, Michigan, by permitting the owners to remove bridgetenders for an extended period of time during the winter months when navigation on the Ontonagon River is negligible, with a requirement that the draw of this bridge will open on signal upon receipt of a 24 hour advance notice. This change is being made because of a decrease in requests for opening the draw from November 16 to December 16 and from March 15 to March 31. This action will relieve the bridge owners of the burden of having bridgetenders constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on Spetember 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone (216) 522-3993.

SUPPLEMENTARY INFORMATION: On June 23, 1983, the Coast Guard published a Proposed Rule in the **Federal Register** (FR 28674) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a Public Notice dated July 20, 1983. Interested parties were given until August 8, 1983, and August 18, 1983, respectively, to submit comments.

Drafting Instructions

The principal persons involved in drafting this amendment are: Robert W. Bloom, Jr., Chief, Bridge Branch, Ninth Coast Guard District, Project Officer, and LCDR A. R. Butler, Assistant Legal Officer, Ninth Coast Guard District, Project Attorney.

Discussion of Comments

No comments were received from the Federal Register or Public Notice.

Economic Assessment and Certification

This final regulation has previously been determined to be non-major under Executive Order 12291, and also to be nonsignificant under the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). The final regulation has previously been certified under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), at 48 FR 28674 (June 23, 1983). No information has been received which changes those determinations and certifications. An economic evaluation has not been conducted. Since this rule will allow the owner of the bridge to only remove bridgetenders during periods of time when navigation on the river is negligible, small entities in the area will not be economically impacted.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations: In considering of the foregoing, Part 117 of Title 33 of the Code fo Federal Regulations is amended by revising § 117.641(f)(2) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.641 Great Lakes tributaries; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(2) Ontonagon Harbor, Michigan: Michigan State Highway Department bridge, mile 0.2 at Ontonagon. From April 1 through November 15 from 7 a.m. to 11 p.m. the draw shall open on signal and from 11 p.m. to 7 a.m. the draw shall open on signal if at least a 1 hour advance notice has been given. From November 16 through March 31 the draw shall open on signal if at least a 24 hour advance notice has been given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: September 7, 1983.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 83-25201 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[3rd C.G. District Reg. CCGD3-83-51]

New Jersey, New York Harbor, Newark Bay; Safety Zone Regulations

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New Jersey, New York Harbor, Newark Bay, which will supercede all previous safety zones in the vicinity of the CNJ Newark Bay Bridge. This zone is needed to protect vessels from the safety hazards associated with the demolition of the center span of the CNJ Newark Bay Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective at 12:00 PM E.D.S.T. 02 September 1983 and terminates upon completion of the current demolition work being done on the CNJ Newark Bay Bridge, with the Zone to be terminated no later than 01 November 1983.

FOR FURTHER INFORMATION CONTACT: Captain of the Port, New York (212)-668-7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazard.

Drafting Information

The drafters of this regulation are Lieutenant G. W. Chappell, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the potential hazards to navigation associated with the demolition operation of the CNJ Newark Bay Bridge. Previous Safety Zones in this area have been altered due to shifting of buoy positions in the CNJ draw channel. This Safety Zone has been drafted without using buoys as reference points.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165-T.03-370 to read as follows:

§ 165-T.03-370 Safety Zone: New Jersey, New York Harbor, Newark Bay South Reach.

(a) *Location.* The following area is a Safety Zone: the waters within a boundary extending from the northeast corner of the center island of the CNJ Newark Bay Bridge, thence northeast on a course of 075 degrees true a distance of approximately 200 yards to position 40 39'19.3" N 74 08' 40" W, thence southwest on a course of 210 degrees true a distance of 275 yards to position 40 39' 13" N 74 08' 43" W, thence northwest on a course of 313 degrees true a distance of approximately 110 yards to the southeast corner of the center island of the CNJ Newark Bay Bridge, thence northeast on a course of 022 degrees true to the starting point.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 1, 1983.

J. L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 83-25196 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[Reg. 83-16]

James River, Newport News, Virginia; Safety Zone Regulations

September 9, 1983.

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the James River, Newport News, Virginia. The zone is needed to protect watercraft from possible damage during the launching of the submarine USS HONOLULU from Newport News Shipbuilding Shipway No. 5. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 11:00 AM, Eastern Daylight Time, September 24, 1983. It terminates at 1:30 PM, Eastern Daylight Time, September 24, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander W. K. SIX, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510, (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants.

Drafting Information

The drafter of this regulation is Lieutenant Commander W. K. SIX, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the launching, no watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF-FM channels 16 and 13. This action is necessary due to the hazards involved in moving a vessel the size of the USS HONOLULU into a restricted waterway such as the James River. During the launching the USS HONOLULU will be out of control until assisting tugs can secure the vessel. This rule is in response to a request by the Newport News Shipbuilding and Drydock Company for Coast Guard assistance in providing traffic control and vessel escorts for the launching of the USS HONOLULU. This action is designed to prevent damage to watercraft and injury to their occupants in the event of collision with the USS HONOLULU and will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T527 to read as follows:

§ 165.T527 Safety Zone: James River, Newport News, Virginia.

(a) *Location:* The waters and waterfront facilities located within the following boundaries constitute a safety zone: A line beginning at 36-58-48N Latitude, 76-26-26W Longitude, thence to 36-58-14N Latitude, 76-27-06W Longitude, thence to 36-59-06N Latitude, 76-28-00W Longitude, thence to 36-59-12N Latitude, 76-26-39W Longitude, thence along the shoreline to the point of beginning. The safety zone will commence at 11:00 AM, Eastern Daylight Time, September 24, 1983 and terminate at 1:30 PM, Eastern Daylight Time, September 24, 1983.

(b) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: September 2, 1983.

D. C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads. Coast Guard.

[FR Doc. 83-25195 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 253

Contract Compliance Program; Removal of Obsolete Provision

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule removes from the Code of Federal Regulations postal regulations in part 253 dealing with the contract compliance program. This is being done because these regulations are obsolete, having been superseded by comparable, revised regulations in the Postal Contracting Manual, a document that is incorporated in the **Federal Register** by reference.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Jones (202) 245-4603.

SUPPLEMENTARY INFORMATION: This final rule removes 39 CFR Part 253 because Part 253 is obsolete and has been superseded by comparable revised provisions in part 8 of section 12 of the Postal Contracting Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 601.100.

PART 253—[REMOVED]

Accordingly, the Postal Service amends Title 39, Code of Federal Regulations, by removing Part 253.

List of Subjects in 39 CFR Part 253

Equal employment opportunity, Government contracts, Postal Service.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-25086 Filed 9-14-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW047VA A-3-FRL 2433-3]

Approval and Promulgation of Implementation Plans, Approval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Virginia has submitted to EPA a series of regulatory amendments of its air pollution control regulation provisions concerning stack heights and alternative compliance schedules. EPA approves these amendments as revisions to the Virginia State Implementation Plan (SIP). The amendments submitted by Virginia meet all of the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EFFECTIVE DATE: This notice will be effective November 14, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of SIP revision, as well as accompanying documentation submitted by the Commonwealth, are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Mrs. Patricia Gaughan (3AW11)

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Virginia State Air Pollution Control Board, Commonwealth of Virginia, Room 801, Ninth Street Office Building, Richmond, VA 23219, Attn: John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AW13) at the EPA, Region III address above, or at (215) 597-8392.

All comments should be submitted to Mr. Bernard Turlinski, Acting Chief, MD/VA/DC/DE Section (3AW13) at the EPA, Region III address listed above. Please reference the EPA Docket number found in the heading of this Notice in any correspondence.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982, 47 FR 5864, EPA promulgated regulations required by Section 123 of the Clean Air Act referrring to stack heights. These regulations are designed to assure that the degree of emission limitation required for the control of any air pollutant under an applicable State Implementation Plan (SIP) is not affected by that portion of any stack height which exceeds good engineering practice (GEP) or by any other dispersion technique. All States were required to review and revise, as necessary, their SIP's to include provisions that limit stack height credits and dispersion techniques in accordance with these regulations.

On January 24, 1983, the Commonwealth of Virginia submitted to EPA amendments to its Regulations of the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as revisions to the Virginia SIP. The changes consist of two major components: (1) A series of amendments related to the stack heights requirements of Section 123 of the Clean Air Act and 40 CFR Part 51; and (2) amendments to the alternative compliance schedule provisions.

The Commonwealth of Virginia certified that public hearings were held on August 16, 1982 at the following locations: Abington, Roanoke, Lynchburg, Fredricksburg, Richmond, Virginia Beach and Annandale. These hearings satisfy the requirements of 40 CFR 51.4.

Stack Heights Regulations

The Commonwealth of Virginia has amended several provisions in its air pollution control regulations to provide for good engineering practice (GEP) requirements of Section 123 of the Clean Air Act and 40 CFR 51.1 (z) and (ff)-(mm), 51.12(j)-(1) and 51.18(1). The specific changes in the Virginia regulations are outlined below:

A. Part I (Definitions), Section 1.02 (Terms Defined)

1. The following terms have been added:

Dispersion Technique
Elevated Terrain
Emission Limitation
Excessive Concentrations
Good Engineering Practice (GEP) Stack Height
Nearby [As used in the definition of "GEP Stack Height"]
Plume Inspection
Stack in Existence

2. The following term has been modified:

Stack [Replaces the former term "Stack or Chimney"]

B. Part II (General Provisions), Section 2.33 (Permits—New and Modified Sources)

1. In Paragraph 2.33(a)(5), referring to permit applications, subparagraph (iv) is added to require public comment periods and public hearings for permit applications of stationary sources for which any provision of the permit is to be based upon a GEP stack height that exceeds the height allowed by subparagraphs (1) and (2) of the term "GEP Stack Height."

2. A minor format change is made in subparagraph 2.33(a)(5)(iii).

C. Part IV (Special Provisions for Existing Sources), Section 4.02 (Compliance)

1. In Subsection 4.02(g) referring to stack heights, paragraphs (1), (2), (5) and (6) are amended to be consistent with the revisions in 40 CFR Part 51 pertaining to GEP stack heights.

2. In Subsection 4.02(g), current paragraphs (3) and (4) are deleted and replaced with new paragraphs (3) and (4) containing language which is consistent with the federal GEP stack height requirements.

D. Part V (Special Provisions for New and Modified Sources), Section 5.02 (Compliance)

1. In Subsection 5.02(f) referring to stack heights, paragraphs (1), (2), (5) and (6) are amended to be consistent with the federal GEP stack height requirements.

2. In Subsection 5.02(f), current paragraphs (3) and (4) are deleted and replaced with new paragraphs (3) and (4) containing language which is consistent with the federal GEP stack height requirements.

Alternative Compliance Schedules

The Commonwealth has also amended subparagraph (f)(7)(i) of Section 4.02 (New or More Stringent Emissions Standards) to require sources subject to regulations 4.54 through 4.57 (Volatile Organic Compounds) to submit proposed alternative compliance schedules by December 31, 1982. Along with this change, Virginia has removed

outdated and unnecessary language from Sections 4.02(f)(1), 4.02(f)(1)(ii) and 4.02(f)(7)(iv).

EPA Evaluation

EPA has reviewed the amendments to both the GEP stack height provisions and the alternative compliance schedules provisions in Section 4.02, and considers the amendments to the alternative compliance schedules to be acceptable. Virginia is required to submit these alternative compliance schedules to EPA for consideration as separate SIP revisions. Virginia has followed this procedure and EPA is currently reviewing several alternative compliance schedules as SIP revisions. The State has also assured EPA that it has revised its reasonable further progress toward attainment of the ozone standard in order to accommodate these alternative compliance schedules. No alternative compliance schedule will be approved as a SIP revision by EPA unless it is consistent with attainment and maintenance of the ozone standard in areas where the standard has been attained and the achievement of reasonable further progress toward attainment in areas where the standard has not been attained.

With regard to Virginia's GEP stack height provisions found in Section 1.02, 2.33(a)(5)(iii), 4.02(g) and 5.02(f), EPA finds all of these amendments to be acceptable in meeting the stack height requirements outlined in 40 CFR 51.1, 51.12 and 51.18. Although the Virginia regulations make no specific reference to the EPA technical documents for fluid models or field studies, EPA will require Virginia to follow EPA procedures as outlined in these technical documents, should the need arise. See 47 FR 5865.

EPA Actions

Based on the above evaluation, EPA approves the amendments to Sections 1.02, 2.33, 4.02 and 5.02 described above as revisions to the Virginia State Implementation Plan. Accordingly, 40 CFR 52.2420 (Identification of Plan) of Subpart VV (Virginia) is revised to incorporate these amended Virginia regulations into the approved Virginia SIP.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 9709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

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

PART 52—[AMENDED]

Title 40, Part 52, Subpart VV of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is revised by adding paragraph (c)(81) as follows:

§ 52.2420 Identification of Plan.

* * * * *

(c) * * *

(81) Amendments to Sections 1.02, 2.33, 4.02, and 5.02 of the Virginia Regulations for the Control and Abatement of Air Pollution submitted on January 24, 1983 by the Virginia State Air Pollution Control Board.

[FR Doc. 83-25186 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2434-2]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's rulemaking announces final approval of Consent Order APC No. 12-1980, for the Hayes-Albion Corporation and Permits 341-79 and 375-79 for the American Colloid Plant, as a revision to the Michigan State Implementation Plan (SIP) in Calhoun County. Consent Order APC No. 02-1980, contains control measures beyond the present requirements of Michigan's Rule 336.1301 and 336.1331 for reducing total suspended particulate (TSP) emissions. EPA's action is based upon a proposed revision to the SIP submitted by the State.

EFFECTIVE DATE: This action is effective October 17, 1983.

ADDRESSES: Copies of the revision and other materials relating to this rulemaking are available at the following addresses (It is recommended that you telephone the contact person listed below, before visiting the Region V Office.):

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460

Environmental Protection Agency, Air and Radiation Branch, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604

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

Michigan Department of Natural Resources, Air Quality Division, 7150 Harris Drive, Lansing, Michigan 48909

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air and Radiation Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street,

Chicago, Illinois 60604, (312) 886-6037

SUPPLEMENTARY INFORMATION: In the May 6, 1980, **Federal Register** (45 FR 29790), EPA approved a strategy developed by the State of Michigan for attaining the primary and secondary TSP National Ambient Air Quality Standards (NAAQS). For the Albion primary TSP nonattainment area, that strategy consisted of developing source-specific abatement orders requiring more stringent controls than the generally applicable requirements of Michigan Rules 336.1301 and 336.1331. In the May 6, 1980, **Federal Register**, EPA stated that the source-specific Abatement Orders were to be submitted to EPA for review and approval as revisions to the Michigan SIP.

On April 5, 1982, the State of Michigan submitted Consent Order APC No. 02-1980 to EPA for the Hayes-Albion Corporation, along with alterations to Section 5(D) of the Consent Order. The Hayes-Albion foundry is located in Calhoun County.

On June 18, 1982, the State of Michigan submitted a Fugitive Dust Control Plan and a Malfunction Abatement Plan for major air cleaning devices at Hayes-Albion as part of its SIP revision. These plans contain specific measures for reducing TSP emissions and have been implemented by the dates specified in Consent Order APC No. 02-1980.

On October 25, 1982 (47 FR 47245), EPA announced the availability of this revision and took final action to approve it. In that notice, EPA advised the public that it was deferring the effective date of its approval for 60 days, until December 27, 1982, to provide an opportunity for submittal of comments on the revisions. EPA also announced that, if within 30 days of the publication of its final approval notice, someone wished to submit an adverse or critical comment, EPA would withdraw its approval and begin a new rulemaking by proposing the action and establishing a 30-day comment period.

On November 19, 1982, EPA received notice that someone wished to comment. Therefore, in accordance with the procedure described above, EPA on March 8, 1983 (48 FR 9642), withdrew its October 25, 1982 (47 FR 47245), approval of this revision to the Michigan SIP for the Hayes-Albion Corporation (Consent Order APC No. 02-1980) and permits 341-79 and 375-79 for the American Colloid Plant. Also, on March 8, 1983 (48 FR 9665), EPA proposed approval of the revision announcing a 30 day comment period. During the comment period, EPA received only one comment from the State of Connecticut.

Comment: The State of Connecticut objected to the reliance on rollback rather than air quality modeling to satisify the requirements for an ambient equivalence demonstration for this alternative emission reduction plan (i.e., bubble). The commentor states that whenever a source requests a permit, variance or otherwise modifies a previous requirement, that a complete modeling analysis of the entire source should be undertaken.

Response: EPA believes the commentor has mistaken this SIP revision as a "bubble" which would entail meeting the requirements of EPA's proposed Emission Trading Policy Statement (April 7, 1982, 47 FR 15076). Instead, this rulemaking consists of a Consent Order for Hayes-Albion and permits for American Colloid which were submitted by the State of Michigan in order to satisify the Part D requirements for TSP as noted by EPA in the May 6, 1980, **Federal Register.** This revision does require additional emission reductions exceeding 1700 tons/year and represents greater than RACT level control at most affected sources. However, this revision does not relax any existing Michigan rule and is not a "bubble". In addition, EPA reviewed the attainment demonstration provided by Michigan and believes it to be consistent with the air quality analysis procedures outlined in the May 6, 1980, **Federal Register** for several TSP nonattainment areas in Michigan. The commentor's statement concerning a complete modeling analysis is consistent with present EPA policy for most TSP SIP revisions with the exception of some "bubbles" for which EPA has proposed more limited modeling procedures under certain circumstances.

EPA has reviewed the comment presented above, and believes that its technical reviews dated June 22, 1982, September 21, 1982, and June 15, 1983 for the Hayes-Albion Consent Order APC No. 02-1980 and American Colloid Permits 341-79 and 375-79 support approval of this SIP revision. In addition, EPA believes that the TSP emissions reduction requirement in Consent Order APC No. 02-1980, including the Fugitive Dust Control Plan and a Malfunction Abatement Plan developed by Hayes-Albion Corporation pursuant to the consent order, along with the American Colloid permits are an acceptable TSP plan for the Albion nonattainment area in Calhoun County, and will provide for air quality improvements and attainment of the TSP NAAQS.

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

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7410))

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

Section 52.1170 is amended by adding paragraph (c)(60) as follows:

§ 52.1170 Identification of plan

* * * * *

(c) * * *

* * * * *

(60) On April 5, 1982, the State of Michigan submitted Consent Order APC No. 02-1980 along with alterations to Section 5(D) of the Consent Order for the Hayes-Albion foundry in Calhoun County. The Consent Order contains control measures beyond the present requirements of Michigan's R336.1301 and R336.1331 for Total Suspended Particulate (TSP) emissions and evaluation methods for determining significant particulate emission sources from the foundry. On June 18, 1982, the State of Michigan also submitted a Fugitive Dust Control Plan and a Malfunction Abatement Plan for the Hayes-Albion foundry. On September 21, 1982, the State of Michigan formally submitted Permits 314-79 and 375-79 for the American Colloid Plant.

[FR Doc. 83-25165 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[Docket No. 1336; A-1-FRL 2433-1]

Approval and Promulgation of Implementation Plans; Rhode Island; Lead Attainment and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Rhode Island. The intended effect of these revisions is to demonstrate the attainment and maintenance of the National Ambient Air Quality Standard for lead (40 CFR Part 51).

EFFECTIVE DATE: This action will be effective November 14, 1983 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C.; Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C. and the Division of Air and Hazardous Materials, Room 204, 75 Davis St., Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Betsy Horne (617) 223-5130.

SUPPLEMENTARY INFORMATION: Section 110 of the Clean Air Act requires states to adopt and submit to the EPA Administrator, within nine months after promulgation of a National Ambient Air Quality Standard (NAAQS), plans for attainment and maintenance of the standard. On October 5, 1978 EPA promulgated primary and secondary NAAQS for lead (43 CFR 46246) as well as the requirements of an approvable lead State Implementation Plan (43 FR 46264). These provisions require the submission of air quality data, a control strategy, air quality modeling, and a demonstration that the NAAQS will be attained within the time-frame specified by the Clean Air Act.

On July 7, 1983, Rhode Island submitted a lead attainment and maintenance plan which included technical support to satisfy 40 CFR Part 51, Implementation Plans for Lead.

Air Quality

On September 17, 1982, EPA approved Rhode Island's National Air Monitoring Station (NAMS) network for lead based on the requirements of 40 CFR Part 58. The two network sites include a middle-scale monitor (Dyer Street, Providence) and a neighborhood site (Bonanza Bus Terminal, Providence). Two additional sites, which have been approved by EPA but are not part of the NAMS network, are located at the Fire Department in Cranston and at the University of Rhode Island at West Greenwich. The public may inspect the network description during normal business hours at EPA's Environmental Services Division, 60 Westview Street, Lexington, MA 02173 (617) 861-6700 or at the State address listed in the **ADDRESSES** section above.

The State analyzed filters taken from the Dyer and Bonanza sites from 1978 and 1982. Various quarters of data were available and analyzed from four other sites. Violations of the standard were recorded in 1978 and 1979; there have not been any violations since the end of 1979.

Emissions

Statewide mobile source emissions were calculated from 1977 through 1984 and show a decrease in lead emissions during that period by a factor of five. Rhode Island's emissions inventory shows no significant point sources of lead.

In the July 7, 1983 submittal, Rhode Island indicated how it would address new stationary sources of lead. A hearing to amend Regulation 9, "Approval to Construct, Install, Modify or Operate" was held on July 21, 1983. Among other actions, those revisions would require a permit for all new sources emitting five or more tons of lead per year. The regulations would also require the source to install Best Available Control Technology sufficient to assure maintenance of the lead standard. EPA is proposing to approve these changes to Regulation 9 in another notice in the near future. Until these revisions are published as final rulemaking by EPA, Rhode Island's lead submittal commits to controlling these new lead sources as if the regulation were in effect and indicates the State's legal authority to implement the program. These procedures are sufficient to control new stationary sources of lead emissions.

In summary, Rhode Island has had no lead standard violations in three years, is continuing to monitor for lead emissions and has new source review procedures in effect for new lead sources. EPA finds that the Rhode Island lead SIP demonstrates that the NAAQS for lead is being attained and will be maintained for the foreseeable future. This demonstration is based primarily on lead emission reductions that result from the Federal programs for the reductions of lead in gasoline, the requirement for use of unleaded gasoline in catalyst-equipped vehicles and other requirements. Therefore, Rhode Island has met all the requirements of the Clean Air Act and applicable regulations for submittal of an adequate lead SIP.

EPA is approving these SIP revisions without prior proposal because the Agency views this action as non-controversial and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective November 14, 1983.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

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

(Secs. 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

Under the Regulatory Flexibility Act I certify that this rule will not have a significant impact on a substantial number of small entities.

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

Dated: September 9, 1983.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

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

Subpart OO—Rhode Island

Section 52.2070 is amended by adding paragraph (c)(20) as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(20) Revisions to attain and maintain the lead NAAQS as submitted on July 7, 1983 by the Department of Environmental Management.

[FR Doc. 83-25149 Filed 9-14-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[FL-009; A-4-FRL] 2432-8]

Approval and Promulgation of Implementation Plans; Florida; RACT For New and Modified Minor Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Florida Department of Environmental Regulation (FDER) has made amendments to Rules 17-2.650(1)(a) and 17-2.650(2)(a) of the Florida Administrative Code. This regulatory revision requires all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize Reasonably Available Control Technology (RACT) and other emission limitations as specified in 17-2.650 if they are not subject to Lowest Achievable Emission Rate (LAER) provisions. These amendments allow FDER to impose on sources exempt from LAER those restrictions necessary to prevent interference with the attainment of air quality standards. EPA today announces approval of this revision in the Florida plan.

EFFECTIVE DATE: This action will be effective on November 14, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments

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

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365;

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

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV, at the above address, and telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The Florida Environmental Regulation Commission approved two amendments to Florida Administrative Code Rules 17-2.650(1)(a) and 17-2.650(2)(a) at a public hearing on December 8, 1982. These two amendments were subsequently adopted by the Florida Department of Environmental Regulation through filing with the Florida Secretary of State on December 30, 1982. Both of the amendments became effective January 19, 1983. FDER submitted them to EPA on February 18, 1983, for approval as a State Implementation Plan (SIP) revision.

The purpose of amendments is to more specifically define the sources which must comply with the 17-2.650 requirements of Florida Administrative Code. Those emission limits were applicable to *all* existing sources in nonattainment areas and were generally made applicable to new minor sources pursuant to Rule 17-2.520, which authorizes the Department to impose on sources exempt from LAER those restrictions necessary to prevent interference with attainment. Prior to the adoption of the two amendments, existing facilities in nonattainment areas were required to meet the emission limits in 17-2.650. However, new facilities of the same size and type conceivably might not be required to install any control equipment at all if it could not be demonstrated that RACT was necessary to prevent interference with attainment. The amendments add a degree of consistency to the permitting and regulation of new minor sources in nonattainment areas by requiring compliance with the emission limits in 17-2.650.

The amendment to Rule 17-2.650(1)(a) makes RACT applicable to new and modified sources of Volatile Organic Compounds (VOCs) which are located in ozone nonattainment areas. The RACT requirements now apply to new and modified sources which are not subject to LAER.

The amendment to Rule 17-2.650(1)(a) also requires new and modified minor particulate sources which are not subject to LAER to meet the emission limits contained therein. The amendment applies to new and modified particulate sources which are located in a particulate nonattainment area or its area of influence. The amendment specifically exempts new and modified minor sources which will not have a significant impact on a particulate nonattainment area and sources of unconfined emissions which are more than 5 km from the boundary of a particulate nonattainment area.

The revision adopted and submitted by FDER contains the following rule (17-2.650(2)(a)3.) which is redundant with the existing rule:

The following particulate sources located in an area of influence of a particulate nonattainment area are exempt from the emission limitations specified in 17-2.650(2)(c).

a. Sources of unconfined particulate matter located more than five kilometers outside the boundary of a particulate nonattainment area; and

b. Sources which have an insignificant impact on the nonattainment area.

These new exemptions are already contained in 17-2.650(2)(b)—Exemptions Rule 17-2.650(2)(a)3.a. is identical to 17-2.650(2)(b)4. and 17-2.650(2)(a)3.b. is identical in meaning to 17-2.650(2)(b)2. FDER intends to correct this error in a later revision; therefore, EPA will take no action on this portion of the revision (17-2.650(2)(a)3.).

Action. EPA is today approving the Florida rule changes which require all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize RACT if they are not subject to LAER provisions. EPA will take no action on rule 17-2.650(2)(a)3. This is done without prior proposal because the changes in the regulations will have limited impact on air quality and no comments are anticipated.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a

new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review ot this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. The action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart K—Florida

In § 52.520, is amended by adding paragraph (c)(52) as follows:

§ 52.520 Identification of plan.

* * * * *

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

* * *

(52) Amendments to Chapter 17-2.650(1)(a) and 17-2.650(2)(a) submitted on February 18, 1983, by the Florida Department of Environmental Regulation. The amendments require all new and modified sources of particulate and volatile organic compounds located in nonattainment areas or in areas of influence for particulate matter to utilize Reasonably Available Control Technology (RACT) if they are not subject to Lowest Achievable Emissions Rate (LAER) provisions.

[FR Doc. 83-25185 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2432-4]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Hawaii Department of Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of authority for certain NSPS and NESHAPS categories to the Hawaii Department of Health (HDOH). This action gives the HDOH the authority to implement and enforce the federal NSPS and NESHAPS programs. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to the State government.

EFFECTIVE DATE: August 15, 1983.

ADDRESS: Hawaii Department of Health, Environmental Protection and Health Services Division, 1250 Punchbowl Street, Honolulu, HI 96813.

Mailing Address: Hawaii Department of Health, Environmental Protection and Health Services Division, Post Office Box 3378, Honolulu, HI 96801.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: On July 28, 1983, the Deputy Director for Environmental Health, Hawaii Department of Health requested delegation of authority for certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter and agreement dated August 15, 1983. The following agreement represents the terms and conditions of the delegation:

U.S. EPA-HDOH Agreement for Delegation of Authority of the Regulations for Standards of Performance for New Stationary Sources (40 CFR Part 60) and National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61)

The undersigned, on behalf of the Hawaii Department of Health (HDOH) and the United States Environmental Protection Agency (U.S. EPA), hereby agrees to the delegation of authority for the implementation of 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS) and 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS) from the U.S. EPA to the HDOH, subject to the terms and conditions below.

Permits.

1. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NSPS. The categories of new or modified sources covered by this Agreement are:

a. Fossil Fuel Fired Steam Generators, Subpart D.

b. Electric Utility Steam Generator, Subpart Da.

c. Incinerators, Subpart E.

d. Portland Cement Plants, Subpart F.

e. Asphalt Concrete Plants, Subpart I.

f. Petroleum Refineries, Subpart J.

g. Storage Vessels for Petroleum Liquids Constructed after May 18, 1978, Subpart Ka.

h. Sewage Treatment Plants, Subpart O.

i. Stationary Gas Turbines, Subpart GG.

2. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NESHAPS. The category of new or modified sources covered by this Agreement is limited to mercury, Subpart E.

4. If at any time there is a conflict between a HDOH regulation and a U.S. EPA regulation (40 CFR Parts 60 and 61), the U.S. EPA regulation must be applied if it is more stringent than that of the HDOH. Exemptions authorized under HDOH's permit regulations will not exempt sources from controls required by 40 CFR Parts 60 and 61.

5. Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR Parts 60 and 61 unless alternate methods or procedures are approved by the U.S. EPA. Although the U.S. EPA retains the exclusive right to approve equivalent and alternative test methods as specified in 40 CFR 60.8(b) (2) and (3), and 61.14, the HDOH may approve minor changes in methodology provided these changes are reported to U.S. EPA. The U.S. EPA also retains the right to change an opacity standard as specified in 40 CFR 60.11(e).

a. The HDOH shall observe whenever possible required performance tests and determine compliance with NSPS/NESHAPS and maintain the following documentations for each test: (i) Source test plan and review; (ii) Source test observation report; and (iii) Source test report evaluation.

b. The HDOH shall notify U.S. EPA of all source test violations of applicable NSPS/NESHAPS within five days of completion of the HDOH's evaluation.

c. By December 31, 1983, the HDOH shall require sources to report particulate emissions in two categories: (i) Front half (filter and probe) and (ii) Front and back half (probe, filter and impingers).

d. Each quarter, the HDOH shall notify U.S. EPA of upcoming performance tests for the upcoming quarter.

e. The U.S. EPA shall provide HDOH with source test observation training by December 31, 1983.

6. Additionally, the HDOH must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

7. Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the HDOH with the prior concurrence of the U.S. EPA.

8. If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS/NESHAPS requirements, or if there are questions on interpretations of the same, the HDOH shall notify U.S. EPA and obtain a determination on the applicability of the NSPS/NESHAP regulations.

Enforcement

HDOH will have primary responsibility for enforcement of the delegated NSPS/NESHAPS categories in accordance with the State's procedures and regulations.

Technical Support and Monitoring

1. HDOH air laboratory *cannot* provide any technical and monitoring support for NSPS at this time.

2. NESHAPS sampling and analysis will be the responsibility of the generator; any additional or follow-up sampling and analysis for HDOH will be done by a private laboratory under contract to HDOH.

General Delegation Conditions

1. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the State to request or accept responsibility of future standards and requirements. A new request for responsibility will be required for any standards not included in 1 and 2 under *Permits*.

2. This delegation covers regulation as in effect on the date of this Agreement and revisions promulgated after the date for NSPS and NESHAPS categories identified in 1 and 2 under *Permits*. U.S. EPA will be responsible to provide HDOH with six copies of the regulations and revision thereof delegated under this Agreement. HDOH shall not be responsible for aspects of any permit for which EPA failed to provide HDOH with appropriate regulations or revisions prior to HDOH's issuance of a permit.

3. If the U.S. EPA determines that the HDOH is not implementing the NSPS or NESHAPS programs in accordance with the terms and conditions of this delegation, this delegation, after consultation with HDOH, may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the HDOH

4. The delegation may be amended or cancelled at any time by the formal written agreement of both the HDOH and the U.S. EPA including amendments to add, change or remove conditions or terms of this Agreement.

5. Information shall be made available to the public in accordance with 40 CFR 60.9 and 61.15(b). Any records, reports, or information provided to, or otherwise obtained by, the HDOH in accordance with the provisions of these regulations shall be made available to the designated representative of U.S. EPA upon request.

6. This delegation of authority is effective upon the date of this Agreement.

Dated: July 28, 1983.

Melvin K. Koizumi,

Hawaii Department of Health.

Dated: August 15, 1983.

John Wise,

Environmental Protection Agency.

A copy of the letter requesting delegation of authority is available for public inspection at the U.S. Environmental Protection Agency, Region 9 Office, Air Management Division, Air Operations Branch, 215 Fremont Street, San Francisco, California 94105.

With respect to the State of Hawaii, all reports, applications, submittals, and other communications pertaining to the NSPS and NESHAPS source categories listed in the agreement should be directed to the HDOH at the address in the **ADDRESS** section of this notice.

The Regional Administrator finds good cause for forgoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. This delegation became effective according to the date cited in **DATES**, therefore, it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

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

This Notice is issued under the Authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: September 6, 1983.

John C. Wise,

Acting Regional Administrator.

PARTS 60 AND 61—[AMENDED]

Subpart A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

Sections 60.4(b)(M) and 61.04(b)(M) are each amended by adding the address of the Hawaii Department of Health to read as follows:

§§ 60.4 and 61.04 Address.

* * * * *

(b) * * *

(M) * * *

Hawaii Department of Health, 1250 Punchbowl Street, Honolulu, HI 96813

Hawaii Department of Health (mailing address), Post Office Box 3378, Honolulu, HI 96801

* * * * *

[FR Doc 83-25148 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[Region II Docket No. 10; A-2-FRL 2381-3]

Designation of Areas for Air Quality Planning Purposes; Revisions to Section 107 Attainment Status Designations for Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Environmental Protection Agency's approval of a request from the Commonwealth of Puerto Rico to revise the air quality designation of the Guayanilla Air Basin from "does not meet secondary standards" to "better than national standards" for particulate matter. Such designations are required by Section 107(d) of the Clean Air Act and may be revised from time to time at the request of a state.

EFFECTIVE DATE: This action becomes effective September 15, 1983.

ADDRESSES: Copies of Puerto Rico's submittal and the Environmental Protection Agency's review of this material are available for public inspection during normal business hours at: U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air

Act, these designations have been revised from time to time at a state's request.

On January 25, 1983 the Commonwealth of Puerto Rico's Environmental Quality Board (EQB) submitted to EPA a request to revise the air quality designation of the Guayanilla Air Basin from "does not meet secondary standards" to "better than national standards" with respect to the secondary national ambient air quality standard for particulate matter.

This redesignation request and the basis for EPA's approval are described in detail in a notice of proposed rulemaking which EPA published in the April 7, 1983 issue of the **Federal Register** (48 FR 15166). In this notice EPA advised the public that, based on its review of the technical material submitted by the EQB, it was proposing to approve EQB's redesignation request. Also in its April 7, 1983 notice, EPA invited interested persons to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. No comments were received.

Based on EPA's review of the technical materials submitted by the EQB in support of its request and based on the fact that EPA has previously approved the EQB particulate matter control strategy (45 FR 72658, November 3, 1980), EPA is approving the redesignation as requested. This action is being made effective immediately because a redesignation imposes no new or additional regulatory requirements and delay would serve no useful purpose.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for a review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

List of Subjects In 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 and 301, Clean Air Act, as amended [42 U.S.C. 7407, 7601])

Dated: September 9, 1983.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

Subpart C—Section 107 Attainment Status Designations

Section 81.355 is amended by amending the attainment status designation table for total suspended particulates as follows:

§ 81.355 Puerto Rico.

PUERTO RICO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Catano Air Basin [1]	X			
Municipality of Dorado			X	
Municipality of Ponce			X	
Remainder of AQCR				X

[1] Geographic boundary is described in the test.

* * * * *

[FR Doc. 83-25150 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 413, 425, 433, 465, 466, 468, and 469

[WH-FRL 2432-6]

Electroplating, Leather Tanning and Finishing, Metal Finishing, Coil Coating, Porcelain Enameling, Copper Forming and Electrical and Electronic Components—Pretreatment Standards for Existing Sources Compliance Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends various pretreatment standards for existing sources promulgated under the Clean Water Act and informs the public of a recent court order in the Clean Water Act Toxics Consent Decree case, *NRDC* v. *Ruckelshaus*, Nos. 2153-73 (and consolidated cases) (D.D.C. August 2, 1983).

DATE: These regulations shall be effective on September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Linda Wilbur, Effluent Guidelines Division, (WH-552), EPA, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382-7113.

SUPPLEMENTARY INFORMATION: EPA has recently promulgated several pretreatment standards for existing sources (PSES) under the Clean Water Act, 33 U.S.C. 1251 *et seq.* Whenever the Agency promulgates such standards, it specifies a compliance deadline. In this regard, the Agency has been guided by Paragraph 10(b) of the Clean Water Act Toxics Consent Decree, *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979), which specified a compliance date for PSES of no later than June 30, 1984.

In several recent rulemakings, the Agency has found that existing indirect dischargers would need beyond June 30, 1984, to comply with the PSES. Both the Natural Resources Defense Council (NRDC) and EPA determined that the compliance deadline for PSES contained in paragraph 10(b) of the Decree was no longer consistent with the original intent of the parties. Accordingly, EPA and NRDC filed a joint motion to modify paragraph 10(b) of the Decree to allow EPA to specify a compliance deadline for PSES up to three years from the date such standards are promulgated. This is consistent with section 307(b) of the Clean Water Act, 33 U.S.C. 1317(b).

On August 2, 1983, the District Court granted EPA's and NRDC's joint motion. As modified, paragraph 10 of the Consent Decree now requires compliance with pretreatment standards for existing sources at the earliest possible time and in no event later than three years from the date such standards are promulgated, as specified by the Administrator. In each rulemaking EPA will make a finding supported on the record of the amount of time needed for existing indirect dischargers to comply.

In the following seven recently promulgated pretreatment standards for existing sources, the Agency determined that the industry would need beyond June 30, 1984 to comply:

Regulation	Compliance date
Leather tanning and finishing, 40 CFR 425.05, 47 FR 52848, 52872 (November 23, 1982).	Nov. 25, 1985.
Porcelain enameling, 40 CFR 466.04, 47 FR, 53172, 53185 (November 24, 1982).	Nov. 25, 1985.
Coil coating, 40 CFR 465.04, 47 FR, 54232, 54245 (December 1, 1982).	Dec. 1, 1985.
Electronic components electronic crystals subcategory, 40 CFR 469.21, 48 FR 15382, 15395 (April 8, 1983)	
TTO compliance deadline	July 1, 1984.
Arsenic compliance deadline	Nov. 8, 1985.
Copper forming, 40 CFR 468.04, 48 FR 36942, 36958 (August 15, 1983).	Aug. 15, 1986.
Electroplating/Metal Finishing, 40 CFR 413.01, 433.15, 48 FR 32462, 32482, 32487	
Electroplating PSES for Metals and Cyanide (Part 413).	April 27, 1984 (for nonintegrated plants). June 30, 1984 (for integrated plants).
Electroplating PSES (Part 413) for TTO.[2].	July 15, 1986.
Metal finishing PSES for TTO [1].	June 30, 1984 (except for plants covered by Part 420); July 10, 1985 (for plants covered by Part 420).
Metal finishing PSES for Metals, Cyanide and TTO [2].	Feb. 15, 1986.

[1] For these facilities the first TTO limit is based on management practices only.
[2] This TTO limit is based on management practices followed by precipitation/clarification.

In each of these cases, the Agency established a later compliance deadline for PSES and stated that this date would be effective only if the Court amended paragraph 10(b) of the Decree. Now that the Court has amended the Decree, the Agency is amending each of these standards to delete the reference to its motion to modify the Decree and avoid any confusion within the regulated community. The PSES compliance deadline for each of the standards shall be the date previously established in each of the individual rulemakings. This amendment has no effect on the compliance deadline for existing or new direct dischargers or new indirect dischargers under the Clean Water Act.

Because this is a technical amendment in full conformance with a recent court order, the Agency finds that there is good cause to promulgate these amendments without prior notice and an opportunity to comment and to make these amendments effective immediately upon publication.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement for a Regulatory Impact Analysis. These technical amendments are not major because they impose no new obligation and merely recognize a recent court order. Because this is a minor technical amendment which does not affect the substance of these regulations, it was not submitted to the Office of Management and Budget for review under Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. Although these amendments are not subject to this requirement because they are not being proposed, EPA has determined that for the reasons discussed above, they do not have a significant impact on small entities.

List of Subjects

40 CFR Part 425

Leather tanning, Leather and leather products industry, Water pollution control, Waste treatment and disposal.

40 CFR Part 465

Coil coating, Metal coating and allied services, Waste treatment and disposal, Water pollution control.

40 CFR Part 466

Metal coating and allied services, Porcelain enamel, Waste treatment and disposal, Water pollution control.

40 CFR Part 468

Copper forming, Waste treatment and disposal, Water pollution control.

40 CFR Part 469

Electrical and electronic products, Electric and electronic equipment, Waste treatment and disposal, Water pollution control.

40 CFR Parts 413 and 433

Electroplating, Metals, Waste treatment and disposal, Water pollution control.

Dated: September 7, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PARTS 413, 425, 433, 465, 466, 468, and 469—[AMENDED]

In consideration of the foregoing the following parts are amended:

§§ 413.01, 433.15, 465.04, 466.04, and 468.04 [Amended]

1. 40 CFR 413.01(a), 433.15(f), 465.04, 466.04, 468.04, are amended by removing footnote 1.

§§ 425.05 and 469.21 [Amended]

2. 40 CFR 425.05 and 469.21 are amended by removing the following three sentences: "The Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979) specifies a compliance date for PSES of no later than June 30, 1984. EPA will be moving for a modification of that provision of the Decree. Should the Court deny that motion, EPA will be required to modify this compliance date accordingly."

[FR Doc. 83-25152 Filed 9-14-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6559]

Suspension of Community Eligibility Under the National Flood Insurance Program; New Jersey et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

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

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

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective

enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

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

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

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood and hazard area
			Region II		
New Jersey:					
Warren	Mansfield, township of	340491C	Nov. 26, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	8-16-74, 10-17-75 6-25-76	Sept. 15, 1983
Monmouth	Allenhurst, borough of	340283C	Apr. 10, 1975—Emergency Mar. 15, 1979—Regular Sept. 15, 1983—Suspension	8-24-73-, 4-30-76 3-15-79	Do.
Do	Asbury Park, city of	340285C	Nov. 6, 1974—Emergency Feb. 15, 1979—Regular Sept. 15, 1983—Suspension	7-13-73, 4-30-76 2-15-79	Do.
Do	Loch Arbour, village of	340306C	June 27, 1973—Emergency Mar. 15, 1979—Regular Sept. 15, 1983—Suspension	11-30-73, 4-16-76 3-15-79	Do.
New York:					
Nassau	Bayville, village of	360988B	Oct. 25, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	5-3-74, 3-26-76	Do.
Saratoga	Hadley, town of	360718B	Oct. 23, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	9-13-74, 10-23-75	Do.
Madison	Munnsville, village of	360407B	Mar. 16, 1976—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	8-30-74, 4-30-70	Do.
Oneida	Oriskany, village of	360538B	Jan. 29, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	2-22-74, 7-30-76	Do.
Do	Paris, town of	360539A	Aug. 6, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	1-26-76	Do.
Madison	Stockbridge, town of	361412A	Aug. 6, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	1-3-75	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood and hazard area
			Region III		
Pennsylvania: Luzerne	Exeter, township of	420603B	Jan. 19, 1983—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-28-74, 5-21-76	Do.
			Region IV		
South Carolina: Charleston	Palms, isle of	455416B	Sept. 4, 1970—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	4-2-71, 7-1-74 10-3-75	Do.
Alabama: Calhoun	Unincorporated areas	010013B	Sept. 22, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	11-29-74, 3-24-78	Do.
Tennessee: Gibson	Humbolt, city of	470059B	Apr. 2, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	5-3-74, 7-16-76	Do.
			Region V		
Illinois:					
Hardin	Elizabethtown, village of	170275B	July 2, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	1-16-74, 1-16-76	Do.
Williamson	Marion, city of	170719B	May 12, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-7-74, 5-28-76	Do.
Will	Rockdale, village of	170710B	May 27, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	3-22-74, 8-6-76	Do.
Hardin	Rosiclare, city of	170276B	July 3, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-17-73, 9-19-75	Do.
Ohio: Brown	Higginsport, village of	390677A	Jan. 29, 1976—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	2-7-75	Do.
Wisconsin: Columbia	Unincorporated area	550581C	July 31, 1975—Emergency Sept. 15, 1983—Regular Sept. 15m, 1983—Suspension	11-3-75, 4-15-80	Do.
			Region VI		
New Mexico:					
Bernalillo	Albuquerque, city of	350002	Sept. 9, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-4-79	Do.
Do	Unincorporated area	350001C	Aug. 26, 1974—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	12-20-74, 9-6-77 7-10-79, 1-31-81	Do.
Texas:					
Cameron	South Padre Island, town of	480115A	Nov. 26, 1973—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-7-74	Do.
Do	Unincorporated area	480101B	Aug. 14, 1970—Emergency June 15, 1979—Regular Sept. 15, 1983—Suspension	6-15-79	Do.
			Region IX		
California:					
Los Angeles	Long Beach, city of	060136B	Dec. 11, 1970—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	7-26-74, 9-15-83 7-11-78	Do.
Do	Redondo Beach, city of	060150B	Apr. 22, 1975—Emergency Sept. 15, 1983—Regular Sept. 15, 1983—Suspension	6-28-74, 5-21-76	Do.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 12, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-25164 Filed 9-14-83; 8:45 am]

BILLING CODE 6715-01-M

[Docket No. FEMA 6556]

44 CFR Part 64

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Illinois, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034. Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois: Edwards	Browns, Village of	170226A	August 3, 1983—Emerg.	11-15-74, 6-13-80.
Kentucky: Ohio	Unincorporated Areas	210183	do	12-2-77.
Wisconsin: Green	Monticello, Village of	550163B	May 15, 1975—Emerg. July 18, 1983—Reg. July 18, 1983—Susp. August 1, 1983—Rein.	4-16-75.
Minnesota: Marshall	Unincorporated Areas	270638B	May 15, 1974—Emerg. July 18, 1983—Reg. July 18, 1983—Susp. August 2, 1983—Rein.	3-27-81.
Pennsylvania:				
Somerset	Allegheny, Township of	422509	August 4, 1983—Emerg.	1-3-75.
Do	Fairhope, Township of	422049	August 5, 1983—Emerg.	11-15-74.
New York: Fulton	Broadalbin, Town of	361128A	do	9-20-74, 8-6-76.
Indiana: Elkhart	Middlebury, City of	180460B	August 17, 1983—Emerg. August 17, 1983—Reg.	9-7-79, 8-15-83.
Massachusetts: Hampshire	Easthampton, Town of	250160B	August 17, 1983—Emerg. August 17, 1983—Reg.	6-21-74, 11-4-77, 8-15-79.
Oklahoma:				
Coal	Lehigh, City of	400299	August 17, 1983—Emerg.	10-29-76.
Marshall	Unincorporated Areas	400511-NEW.	do	Do.
Arkansas: St. Francis	Wheatley, City of	050374	do	9-19-75.
Texas:				
Bell	Little River-Academy, City of	481579	August 23, 1983—Emerg.	Do.
Kenedy	Unincorporated Areas	481230A	August 22, 1983—Emerg.	1-17-78.
Virginia: Giles	Rich Creek, Town of	510070A	June 10, 1975—Emerg. August 15, 1978—Reg. August 15, 1978—Susp. August 22, 1983—Rein.	11-5-76.
Minnesota: Marshall	Middle River, City of	270270A	August 22, 1983—Emerg.	7-19-74.
Wisconsin: Columbia	Portage, City of	550063B	June 11, 1974—Emerg. August 15, 1983—Reg. August 15, 1983—Susp. August 26, 1983—Rein.	6-11-74, 5-3-74.
		Region I		
Massachusetts: Berkshire	Adams, Town of	250016B	August 1, 1983—Suspension withdrawn	11-5-76, 10-18-74.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Vermont:				
Washington	Plainfield, Town of	500275B	do	8-9-74, 8-27-76.
Do	Plainfield, Village of	500119B	do	10-15-76, 6-28-75.
Massachusetts: Plymouth	Middleborough, Town of	250275C	do	11-1-74, 3-4-77, 9-16-81.
Region III				
Pennsylvania: Cambria	Johnstown, City of	420231C	do	1-16-74, 9-3-76, 4-15-77.
Region II				
New York:				
Suffolk	Head-of-the-Harbor, Village of	361513B	do	11-15-74, 7-2-76.
Greene	Lexington, Town of	360294B	do	8-23-74, 4-23-76.
Suffolk	Poquott, Village of	361518B	do	11-15-74, 6-25-76.
Region V				
Indiana: Grant	Jonesboro, Town of	180076C	do	12-7-73, 7-23-76, 3-9-79.
Illinois:				
Greene	Eldred, Village of	170251	do	5-5-81.
Calhoun	Kampsville, Village of	170735	do	2-4-81.
Pike	Valley City, Village of	170559	do	2-18-81.
Ohio: Franklin	Gahanna, City of	390171B	do	5-17-74, 8-6-76.
Wisconsin:				
Green	New Glarus, Village of	550164B	do	5-24-74, 6-11-76.
Rock	Unincorporated Areas	550363A	do	Do.
Waukesha	Unincorporated Areas	550476B	do	6-17-77.
Michigan: Calhoun	Emmett, Township of	260561A	do	6-1-83.
Region VII				
Iowa: Black Hawk	Elk Run Heights, City of	190019B	do	1-16-74, 4-16-76.
Kansas: Ellis	Ellis, City of	200095B	do	1-9-74, 10-24-75.
Region VIII				
Utah: Salt Lake	Salt Lake City, City of	490105A	do	12-27-74.
Region X				
Idaho: Nez Perce	Lapwai, City of	160103B	do	8-9-74, 1-9-76.
Region II				
New Jersey:				
Warren	Allamuchy, Township of	340480B	August 15, 1983—Suspension Withdrawn	4-30-76, 5-24-74.
Hudson	Bayonne, City of	340218B	do	9-17-76, 5-17-74.
Somerset	Bound Brook, Boro. of	340430B	do	3-19-76, 7-13-73.
Burlington	Lumberton, Township of	340100	do	9-26-75.
Do	Medford, Township of	340104	do	7-1-77.
New York:				
Albany	Altamont, Village of	360002B	do	5-21-76, 4-12-74.
Steuben	Avoca, Town of	360764B	do	4-14-78.
Clinton	Black Brook, Town of	361309B	do	2-27-76, 1-10-75.
Cortland	Cortland, City of	360178C	do	6-26-81, 2-21-75, 3-29-74.
Niagara	Porter, Town of	360510B	do	11-19-76, 4-12-74.
Essex	Jay, Town of	360265C	do	3-13-81, 9-3-76, 11-8-74.
New Jersey: Atlantic	Atlantic City, City of	345278D	do	1-23-79, 1-9-76, 11-21-75, 7-1-74, 6-18-71.
Region III				
Pennsylvania:				
Adams	Franklin, Township of	421250A	do	1-3-75.
Do	Gettysburg, Boro. of	421243A	do	12-13-74.
Allegheny & Washington	McDonald, Boro. of	420855B	do	7-26-74, 5-7-76.
York	Spring Grove, Boro. of	420938B	do	2-13-76, 5-3-74.
Virginia:				
Tazewell	Tazewell, Town of	510164B	do	7-2-76, 5-17-74.
(Indep. City)	Poquoson, City of	510183C	do	5-16-77, 9-24-76, 7-26-74.
Region V				
Indiana: Elkhart & Kosciusko	Nappanee, City of	180059A	do	4-2-76.
Minnesota: Polk	Unincorporated Areas	270503B	do	12-30-77.
Ohio:				
Brown	Aberdeen, Village of	390675A	do	1-31-75.
Hamilton	Addyston, Village of	390205B	do	5-21-76, 3-1-74.
Gallia	Cheshire, Village of	390186A	do	12-20-74.
Medina	Unincorporated Areas	290378B	do	1-10-75, 4-15-77.
Scioto	Portsmouth, City of	390498C	do	7-27-79, 6-11-76, 5-31-74.
Meigs	Racine, Village of	390390B	do	5-21-76, 4-5-74.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Wisconsin:				
Waukesha	Delafield, City of	550479B	do.	10-10-75, 6-7-74.
Columbia	Pardeeville, Village of	550062B	do.	4-30-76; 12-28-73.
Walworth	Unincorporated Areas	550462B	do.	5-27-77.
Illinois: Pike	Florence, Village of	170552C	do.	2-18-81, 1-30-76, 12-17-73.
Region VI				
Texas: Galveston	Galveston, City of	485469D	do.	6-13-80, 10-3-75, 7-1-74.
Region VII				
Kansas: Harvey	Unincorpprated Areas	200585B	do.	3-7-78.
Montana: Missoula	Unincorporated Areas	300048B	do.	5-24-77, 8-30-74.
Idaho:				
Cassia	Unincorporated Areas	160041	do.	8-16-77.
DOCassia	Declo, City of	160044	do.	5-24-77.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 8, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-25163 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 205

[Docket No. FEMA]

Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Technical amendment to final rule.

SUMMARY: This modifies the Federal Emergency Management Agency (FEMA) Regulations for the Temporary Housing Assistance program under Section 404 of the Disaster Relief Act of 1974 by adding a statement at the end of subsection (w) which indicates the approval by the Office of Management and Budget (OMB) of an information collection requirement.

DATE: The effective date of the rule is the same as the Final Rule, that is: September 16, 1983.

FOR FURTHER INFORMATION CONTACT: Sarah Wise, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472, 202-287-0550

SUPPLEMENTARY INFORMATION: On July 18, 1983 (48 FR 32734), the new Temporary Housing Assistance program regulations were published with the approval of OMB, except for Section 205.52(w), which calls for the preparation of a plan and operational annex in order to evaluate the State's capability to administer the program. Under the Paperwork Reduction Act such a requirement must be approved by OMB. The request was submitted to OMB and their approval has been received. Therefore, the entire regulation will be effective.

(42 U.S.C. 5201)

Accordingly, 44 CFR 204.52(w) is revised by inserting the following at the end of section (w): ("Approved by the Office of Management and Budget under Control Number 3067-0124.")

Dated: September 8, 1983.

George Jett,

General Counsel.

[FR Doc. 83-25158 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-1-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 95

[PR Docket No. 82-799]

Elimination of Individual Station Licenses in Radio Control Radio Service and in the Citizens Band Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: The FCC adopted a Report and Order eliminating individual station licenses in the Radio Control (R/C) and Citizens Band (CB) Radio Services. These Errata are necessary in Order to correct the adopted rules to include proper form numbers and to eliminate references to a rule section in Part 0 of the Commission's Rules which has since been removed.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Erratum

Released: September 1, 1983.

In the matter of amendment of Parts 1 and 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service; PR Docket No. 82-799.

On May 10, 1983, the Commission released a *Report and Order,* 48 FR 24884 (June 3, 1983) in the above captioned proceeding. In the *Report and Order,* the Commission amended § 1.912 of its rules in order to eliminate reference to the filing of Radio Control (R/C) or Citizens Band (CB) applications. Inadvertently, in making this change other recent revisions to this rule section were removed. This document corrects the wording of Section 1.912 to include these revisions.

Additionally, in revising Subparts C and D of Part 95, the Commission included reference to § 0.121 of its rules, which included a list of Field Operations Bureau offices. Section 0.121 has since been deleted from the Rules. *Order,* FCC 83-239 (Released August 10, 1983). Therefore, this document also corrects Subparts C and D of Part 95 by eliminating inappropriate references to § 0.121.

Accordingly, certain rules in 47 CFR Parts 1, and 95 adopted by the *Report and Order* and set forth in its Appendix are corrected to read as follows:

PART 1—[CORRECTED]

1. Paragraph (d) of § 1.912 of Part 1 of the Rules in the Appendix is revised to read:

§ 1.912 Where applications are to be filed.

* * * * *

(d) All formal applications for ship station licenses (FCC Forms 506 and 405–B) shall be submitted to the Commission's office, Box 1040, Gettysburg, Pennsylvania 17325. All formal applications for aircraft station licenses (FCC Forms 404 and 405–B) or for ground station authorization in the aviation service (FCC Form 406) shall be submitted to the Commission's office, Box 1030, Gettysburg, Pennsylvania 17325.

* * * * *

PART 95—[CORRECTED]

2. Paragraph (d) of § 95.208 of Part 95, Subpart C of the Rules in the Appendix is revised to read:

§ 95.208 (R/C Rule 8) How high may I put my antenna?

* * * * *

(d) If your R/C station is located near an airport, and if you antenna structure is more than 6.1 meters (20 feet) high, your may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your R/C station is near an airport, you may contact the nearest FCC field office for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of R/C station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

3. Paragraph (a) § 95.225 of Part 95, Subpart C of the Rules in the Appendix is revised to read:

§ 95.225 (R/C Rule 25) How do I contact the FCC?

(a) Write to your nearest FCC Field Office if you:

(1) Want to report an interference complaint; OR

(2) Want to know if the FCC has type-accepted a transmitter for R/C.

* * * * *

4. Paragraph (d) of § 95.408 of Part 95, Subpart D of the Rules in the Appendix is revised to read:

§ 95.408 (CB Rule 8) How high may I put my antenna?

* * * * *

(d) If you CB station is located near an airport, and if you antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your CB station is near an airport, you may contact the nearest FCC field office for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of CB station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

5. Paragraph (a) of § 95.428 of Part 95, Subpart D of the Rules in the Appendix is revised to read:

§ 95.428 (CB Rule 28) How do I contact the FCC?

(a) Write to your nearest FCC Field Office if you:

(1) Want to report an interference complaint; OR

(2) Want to know if the FCC has type-accepted a transmitter for CB.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-25117 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-358; RM-4374]

FM Broadcast Stations in Juneau, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Juneau, Alaska, as that community's third FM assignment, in response to a petition from KINY Associates.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Juneau, Alaska) (MM Docket No. 83–358, RM–4374).

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 16916, published April 20, 1983, proposing the assignment of Channel 292A to Juneau, Alaska, as that community's third FM assignment [1] in response to a petition filed by KINY Associates ("petitioner"). Petitioner submitted comments in support of the *Notice* and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 292A to Juneau, Alaska, since it could provide a third FM service to that community.

3. Canadian concurrence has been received.

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 §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the following community:

City	Channel No.
Juneau, Alaska	282, 286, and 292A.

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

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

[1] In addition, Channels 264 and 274 have been proposed in MM Docket No. 83–228.

(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, Mass Media Bureau.

[FR Doc. 83-25129 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-230; RM-4350]

FM Broadcast Station in Vero Beach, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 269A to Vero Beach, Florida, in response to a petition filed by Sunshine Broadcasting, Inc. The allocation could provide Vero Beach with its third FM assignment.

DATE: effective: November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Vero Beach, Florida), MM Docket No. 83-230, RM-4350.

Adopted: August 23, 1983.

Released: September 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 14674, published April 5, 1983, issued in response to a petition filed by Sunshine Broadcasting, Inc. ("petitioner"), proposing the assignment of FM Channel 269A to Vero Beach, Florida, as that community's third assignment. Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. The *Notice* specified that the proposed assignment of Channel 269A to Vero Beach was contingent upon the Commission's favorable action on a pending application by Southland Broadcasting, Inc., licensee of FM Station WCKS (Channel 266), Cocoa Beach, Florida, to relocate its transmitter. Otherwise, the Vero Beach proposal would be 12 miles short-spaced to Station WCKS in contravention of § 73.207 of the Commission's Rules. On April 25, 1983, the Commission granted Station WCKS a construction permit to relocate its facilities, thereby eliminating this obstacle to the assignment of Channel 269A to Vero Beach. As petitioner has recognized in its comments, it cannot commence operation on proposed Channel 269A at Vero Beach, until Station WCKS has completed its relocation at Cocoa Beach, Florida.

3. In view of the fact that the proposed assignment could provide a third FM service at Vero Beach, Florida, the Commission believes that the public interest would be served by the assignment of Channel 269A to that community.

4. Accordingly, pursuant to the authority contained in 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, as follows:

§ 73.202 [Amended]

City	Channel No.
Vero Beach, Fla.	228A, 269A, 288A.

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

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

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

[FR. Doc. 83-25118 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-156; RM-4325]

FM Broadcast Station in Woodville, Mississippi; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 240A to Woodville, Mississippi, in response to a petition filed by Wilkinson Broadcasting Company of Mississippi. The assignment could provide a first FM service to that community.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Woodville, Mississippi) MM Docket No. 83-156, RM-4325.

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 11470, published March 18, 1983, proposing the assignment of Channel 240A to Woodville, Mississippi, in response to a petition filed by Wilkinson Broadcasting Company of Mississippi. Petitioner submitted comments in support of the *Notice* and expressed its continuing interest in the channel assignment. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning FM Channel 240A to Woodville, Mississippi, since it could provide a first local FM broadcast service to that community.

3. 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 §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the following community.

City	Channel No.
Woodville, Miss.	240A.

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

For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25125 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-359; RM-4375]

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

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 263 for Channel 265A in Baker, Montana, and modifies the permit for Station KFLN-FM accordingly, in response to a petition filed by the permittee, Empire Broadcasting Corporation.

EFFECTIVE DATE: November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Baker, Montana) (MM Docket No. 83-359, RM-4375).

Adopted: August 23, 1983.

Released: September 9, 1983.

By the Chief, Policy and Rules Division

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 16923, published April 20, 1983, proposing the substitution of Class C Channel 263 for Channel 265A at Baker, Montana, in response to a petition filed by Empire Broadcasting Corporation ("petitioner"), permittee of Station KFLN-FM. The *Notice* also proposed modification of the permit for Channel 265A to specify operation on Class C Channel 263. Petitioner filed comments in support of the *Notice* and reaffirmed its interest in the Class C channel. No opposing comments were received.

2. After careful consideration of the proposal, we believe that the public interest would be served by the substitution of the Class C for the Class A channel inasmuch as it would provide service to a larger area. We have authorized in paragraph 5, herein, a modification of the petitioner's permit for Station KFLN-FM to specify operation on Channel 263 since there were no other expressions of interest in the Class C channel. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

3. Canadian concurrence has been received.

4. In view of the foregoing and 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 § 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Baker, Montana	263

5. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Empire Broadcasting Corporation for Station KFLN(FM), Baker, Montana, is modified, effective November 8, 1983, to specify operation on Channel 263 instead of Channel 265A. Station KFLN-FM may continue to operate on Channel 265A for one year from the effective date of this action or until it is ready to operate on Channel 263, whichever is earlier, unless the Commission sooner directs, 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.

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

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25130 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-82; RM-4264]

FM Broadcast Station Kearney, Nebraska; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: Action taken herein corrects the *Report and Order* issued in the proceeding, 48 FR 34756, published August 1, 1983, assigning Channel 272A to Kearney, Nebraska, as its third FM assignment. The amendatory clause thereof inadvertently failed to reflect the full complement of FM channels assigned to that community.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Erratum

In the Matter of amendment of § 73.202(b), Table of Amendments, FM Broadcast Stations (Kearney, Nebraska) MM Docket No. 83-82, RM-4264.

By the Chief, Policy and Rules Division.

On July 21, 1983, the Commission adopted a *Report and Order* (48 FR 34756, published August 1, 1983) in the above-entitled proceeding assigning Channel 272A to Kearney, Nebraska, as that community's third FM assignment. The amendatory clause thereof, contained in paragraph 3, inadvertently omitted the full complement of FM channels assigned to Kearney. Therefore, that listing is hereby corrected as follows:

City	Channel No.
Kearney, Nebr.	255, 272A, 290.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25124 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-232; RM-4321]

FM Broadcast Station in Reno, Nevada; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a fifth FM channel to Reno, Nevada, in response to a petition filed by Millard V. Oakley.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Reno, Nevada) MM Docket No. 83-232, RM-4321.

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 15665, published April 12, 1983, proposing the assignment of Channel 272A to Reno, Nevada. The *Notice* was issued in response to a petition filed by Millard V. Oakley ("petitioner"). Comments were filed by the petitioner, restating his intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment since it could provide Reno with its fifth FM service. The channel can be assigned in compliance with the minimum separation requirements.

3. Accordingly, in view of the above, it is ordered, that effective November 7, 1983, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Reno, Nev.	238,272A, 283, 289, 295.

4. Authority for this action 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 §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules.

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

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

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

Federal Communications Commission.

Roderick R. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-25127 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-32; RM-4238]

FM Broadcast Stations in Carlsbad, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 281 to Carlsbad, New Mexico, in response to a petition by KOLOB Broadcasting, Inc.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Carlsbad, New Mexico) MM Docket No. 83-32, RM-4238.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 5975, published February 9, 1983, proposing the assignment of Class C FM Channel 281 to Carlsbad, New Mexico, as that community's second FM assignment, in response to a petition filed by KOLOB Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the *Notice* and expressed its continuing interest in applying for Class C Channel 281, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. Mexican concurrence has been received.

3. The Commission has determined that the public interest would be served by assigned Class C Channel 281 to Carlsbad, New Mexico, since it would provide a second local FM service to that community..

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with repect to the following community:

§ 73.202 [Amended]

City	Channel No.
Carlsbad, N. Mex.	221A, 281.

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

6. For further information concerning this proceeding, contact mark N. Lipp, Mass Media Bureau (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25120 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket 83-235; RM-4318]

FM Broadcast Station in Carrington, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Channel 252A for Channel 249A at Carrington, North Dakota, in response to a petition filed by Northwestern College.

EFFECTIVE DATE: November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Carrington, North Dakota) MM Docket 83-235, RM-4318.

Adopted: August 23, 1983.

Released: September 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making,* 48 FR 14688, published April 5, 1983, in response to a petition filed by Northwestern College ("petitioner").[1] The *Notice* proposed substituting Channel 252A for Channel 249A at Carrington, North Dakota. The petitioner filed comments in support of its request. No oppositions to the proposal were received.

2. Canadian concurrence has been obtained for the assignment of Channel 252A to Carrington. The channel can be assigned in compliance with the minimum distance separation requirements.

3. We have concluded that the public interest would be served by the adoption of the proposed substitution of channels at Carrington. Petitioner intends to move its station's transmitter site and the substitution would avoid short-spacing from its station on Channel 250 at Fargo, North Dakota, to the Carrington allocation. Recently, a construction permit was granted at Carrington on Channel 249A to Carrington Broadcasting, Inc. Petitioner has offered reimbursement to this permittee for expenses already incurred. As stated in the *Notice,* the Commission takes no position on petitioner's willingness to reimburse the permittee of Channel 252A for such expenses since at the time of the *Notice,* the permittee was aware of the proposal and under no obligation to incur expenses in constructing the station. We view the reimbursement offer as a private matter between the affected parties.

4. Accordingly, pursuant to the 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 §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 8, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the community listed below:

§ 73.202 [Amended]

City	Channel No.
Carrington, North Dakota	252A.

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

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

[1] Northwestern College is the licensee of Station KFNW-FM (Channel 250), at Fargo, North Dakota.

(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, Mass Media Bureau

[FR Doc. 83-25119 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-155; RM-4287]

FM Broadcast Station in Benton, Pennsylvania; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Benton, Pennsylvania, as its first FM channel, in response to a petition filed by Lynn A. Deppen.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

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 (Benton, Pennsylvania) MM Docket No. 83-155, RM-4287.

Report and Order; Proceeding Terminated

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making,* 48, FR 11472, published March 18, 1983, proposing the assignment of Channel 240A to Benton, Pennsylvania. The *Notice* was issued in response to a petition filed by Lynn A. Deppen ("petitioner"). Comments were filed by the petitioner restating an interest in the channel, if assigned.

2. Canadian concurrence has been obtained in the assignment of Channel 240A to Benton, Pennsylvania. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that Benton could receive its first broadcast service and 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 §§ 0.61, 204(b) and 0.283 of the Commission's Rules, it is ordered, that effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the following city:

City	Channel No.
Benton, Pa.	240A.

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

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

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

Roderick K. Porter,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 83-25123 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-233; RM-4315]

FM Broadcast Station in Dimmit, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Dimmit, Texas, as its first FM channel, in response to a petition filed by JLP Media, Inc.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Dimmit, Texas) MM Docket No. 83-233, RM-4315.

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by JLP Media, Inc. ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making,* 48 FR 14690, published April 5, 1983, proposing the assignment of Channel 240A to Dimmit, Texas, as its first FM service. Comments were filed by the petitioner reiterating

its intention to apply for the channel, if assigned.

2. The Commission believes that the public interest would be served by the assignment of Channel 240A to Dimmit since it could provide that community with its first FM station. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(l), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the following city:

City	Channel No.
Dimmit, Tex.	240A.

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

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25126 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-238; RM-4348]

FM Broadcast Station in Galveston, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 285A to Galveston, Texas, as its second FM assignment, in response to a petition filed by William T. Conner.

EFFECTIVE DATE: November 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Galveston, Texas) MM Docket No. 83-238, RM-4348.

Adopted: August 23, 1983.

Released: September 7, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 14698, published April 5, 1983, proposing the assignment of Channel 285A to Galveston, Texas, as its second FM assignment, in response to a petition filed by William T. Conner ("petitioner"). Petitioner submitted information in support of the *Notice* and reaffirmed his interest in applying for the channel, if assigned. A site restriction of 4.4 miles northeast of Galveston is required to avoid short-spacing to Station KFRD(FM), Channel 285A, in Rosenberg, Texas. No opposing comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 285A to Galveston, Texas, since it could provide a second FM broadcast service to that community.

3. 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 §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1983, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Galveston, Tex.	285A, 293.

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

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25128 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-76; RM-4256]

Television Broadcast Station in Anchorage, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses a proposal to assign UHF television Channel 44 to Anchorage, Alaska. The rule making is dismissed due to lack of interest by the petitioner, Triangulum Corporation, or other interested parties.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Anchorage, Alaska), MM Docket No. 83-76, RM-4256.

Adopted: August 23, 1983.

Released: September 7, 1983.

By: the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 7753, published February 24, 1983, proposing the assignment of UHF television Channel 44 to Anchorage, Alaska, in response to a petition filed by Triangulum Corporation.

2. The Commission did not receive comments from the petitioner (or any other interested party), and consistent with our policy and procedures set forth in the Appendix to the *Notice*, we have dismissed the request for lack of continuing interest.

3. In view of the foregoing, it is ordered, That the petition of Triangulum Corporation, proposing the assignment of UHF television Channel 44 to Anchorage, Alaska, is hereby dismissed.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25121 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-79; RM-4282]

TV Broadcast Stations in Fairbanks, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action dismisses a proposal to assign UHF television Channel 30 to Fairbanks, Alaska. The rule making is dismissed due to lack of interest by the petitioner, Triangulum Corporation, or other interested parties.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order

(Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Fairbanks, Alaska), MM Docket No. 83-79, RM-4282.

Adopted: August 23, 1983.
Released: September 7, 1983.
By the Chief, Policy and Rules Division.

1. Before the Commission is the Notice of Proposed Rule Making, 48 FR 7754, published February 24, 1983, proposing the assignment of UHF television Channel 30 to Fairbanks, Alaska, in response to a petition filed by Triangulum Corporation.

2. The Commission did not receive comments from the petitioner (or any other interested parties), and consistent with our policy and procedures set forth in the Appendix to the Notice, we have dismissed the request for lack of continuing interest.

3. In view of the foregoing, it is ordered, that the petition of Triangulum Corporation, proposing the assignment of UHF television Channel 30 to Fairbanks, Alaska, is hereby dismissed.

4. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(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, Mass Media Bureau.

[FR Doc. 83-25122 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast stations regulations in 47 CFR Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: September 23, 1983.

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

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

List of Subjects in 47 CFR Parts 73 and 74

Radio, Television broadcasting.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: August 23, 1983.
Released: September 9, 1983.
By the Chief, Mass Media Bureau.

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

(a) In § 73.51, Determining operating power, paragraph (c)(2)(ii) directs the rule user to certain equipment performance measurement specifications "in § 73.47." This reference is incorrect. On January 13, 1982, the Commission adopted an Order in which §§ 73.47, 73.254 and 73.554, pertaining to equipment performance measurements for AM, FM and NCE-FM radio plus the TV requirements for such measurements (found only in Forms 302 and 341) were combined into one new rule and designated § 73.1590. The cross reference to § 73.47 found in § 73.51 (c)(2)(ii) is corrected to read § 73.1590. (See appendix item 1.)

(b) In § 73.684, Prediction of coverage, a phrase pertaining to height assumption is missing from paragraph (f). This same phrase was added to § 73.313, Prediction of coverage, in the FM rules in the Order adopted August 24, 1982. 47 FR 40170, September 13, 1982. It pertains to an assumption of 100 feet that may be made in directions where terrain is such that negative antenna heights or heights below 100 feet are obtained. It further requires a supplemental showing where such assumption is made and the actual contour distances are critical factors. The missing phrase, shown here in *italics*, is added via this Order.

"In direction where the terrain is such that negative antenna heights or heights below 100 feet for the 2 to 10 mile sector are obtained, *an assumed height of 100 feet shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing* * * *". (See appendix item 2.)

(c) In the Reregulation Order adopted March 27, 1980, 77 FCC 2d 251, the section title of § 74.751 was changed from "Equipment changes" to "Modification of transmission systems." This rule was again modified in the Report and Order in the Low Power TV proceeding, BC Docket 78-253, 47 FR 21468, May 18, 1982. Through inadvertence, § 74.751 was designated in the LPTV Report and Order as "Equipment Changes" rather than the new title adopted in 1980, "Modification of transmission systems." Correction is made herein. (See appendix item 3.)

(d) Further amendment is made to § 74.751 (see paragraph (c) above) and in so doing eliminates unnecessary, burdensome requirements. This rule defines certain equipment changes which require prior FCC authorization, and further states that such changes which do not require prior authorization, may be made at the licensee's discretion provided the FCC is given written notification upon completion of such change. The part of the rule requiring notification (paragraph c) further requires:

that the changes are appropriately reflected in the next application for renewal of the station license.

This is a needless repetition. The notification after discretionary changes amply conforms to FCC information requirements so further reporting of the same information with the renewal application is unnecessary and is eliminated via this Order. (See appendix item 3.)

(e) The alphabetical index to Part 73 is amended as follows:

(i) deleted are the following listings:

Changes, Transmission standards and (TV)	73.682
Transmission standards and changes (TV)	73.682
Standards and changes, Transmission (TV)	73.682

(ii) Added in proper alphabetical sequence are the following listings:

Transmission standards (TV)	73.682
Standards, Transmission (TV)	73.682
Subsidiary communications services:	
FM	73.295
NCE-FM	73.593

(See appendix items 4 and 5.)

(f) The alphabetical index to Part 74 is amended as follows:

(i) added in proper alphabetical sequence, are the following listings:

Avoidance of interference (TV auxiliaries)	74.604
Interference avoidance (TV auxiliaries)	74.604
Modification of transmission systems:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251
Transmission systems, Modification of:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

(ii) deleted are the following listings:

Under "Changes of equipment,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251
Under "Equipment Changes,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

(See appendix items 6 and 7.)

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

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

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

5. Therefore, it is ordered, that pursuant to Sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective September 23, 1983.

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

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. 47 CFR 73.51 is amended by revising paragraph (c)(2)(ii) as follows:

§ 73.51 Determining operating power.

* * * * *

(c) * * *

(2) * * *

(ii) Where the proposed transmitter power output level(s) is less than 90% of nominal power, equipment performance measurements, as specified in § 73.1590, conducted at each proposed power output level; in addition the measurements and observations required by § 73.1590(b)(1) (i), (ii), (iii), (iv) and (v) for power output levels 10% above and 10% below the proposed output level(s), but at a modulation level of 95 to 100% only. Such measurements must demonstrate that, operating at the proposed power output level(s), the transmitter meets the performance requirements of § 73.40.

* * * * *

2. 47 CFR 73.684 is amended by revising paragraph (f) to read as follows:

§ 73.684 Predicting coverage.

* * * * *

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

* * * * *

PART 74—[AMENDED]

3. 47 CFR 74.751 is amended by revising the section headnote and paragraph (c) to read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(c) Other equipment changes not specifically referred to in paragraphs (a) and (b) of this section may be made at the discretion of the licensee, provided that the FCC in Washington, D.C. is notified in writing upon completion of such changes.

4. In 47 CFR, the Part 73 Alphabetical Index is amended by adding the following listings in their appropriate alphabetical sequence:

Standards, Transmission (TV)	73.682
Subsidiary Communications Services:	
FM	73.295
NCE-FM	73.593
Transmission standards	73.682

5. In 47 CFR, the Part 73 alphabetical Index is amended by removing the following listings:

Changes, Transmission standards and (TV)	73.682
Standards and Changes, Transmission (TV)	73.682
Transmission standards and Changes (TV)	73.682

6. In 47 CFR, the Part 74 Alphabetical Index is amended by adding the following listings in their appropriate alphabetical sequence:

Avoidance of interference (TV auxiliaries)	74.604
Interference avoidance (TV auxiliaries)	74.604
Modification of transmission systems:	
LPTV/TV translators	74.751
ITSF	74.951
FM Translators/Boosters	74.1251
Transmission systems, Modification of:	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

7. In 47 CFR, the Part 74 Alphabetical Index is amended by removing the following listings:

Under "Changes of equipment,"	
LPTV/TV translators	74.751
ITFS	74.951
FM Translators/Boosters	74.1251

[FR Doc. 83-25109 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30511-84]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects a reference to the prohibited species catch (PSC) limits that were established for the Bering Sea and Aleutian Islands area foreign trawl fishery. The PSC limits and the associated management regime for prohibited species were set forth in the final rule implementing Amendment 3 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (48 FR 24719, June 2, 1983).

FOR FURTHER INFORMATION CONTACT: Susan J. Salverson (Regional Plan Coordinator), 907-586-7229.

Dated: September 8, 1983.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

The following correction is made in FR Doc. 83-14771 appearing on page 24721 in the issue of June 2, 1983:

§ 611.93 [Corrected]

On page 24721, in paragraph (e)(2)(iii), the references to "(c)(2)(iii)(D)" are changed to "(c)(2)(ii)(D)."

[FR Doc. 83-25272 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

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

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Purchase of Livestock by Packers for Export

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Notice of proposed rulemaking; Review of existing regulations.

SUMMARY: This notice proposes to remove one policy statement concerning the purchase of livestock by packers for export. This proposal would revise the regulation currently prohibiting packers and dealers from owning or financing selling agencies and rescind the regulation concerning packer ownership of dealers or market agencies buying on commission. The regulation prohibiting exchange of buying information for the purpose of restricting competition, the regulation requiring packers and dealers in competition for the purchase of livestock to conduct their operations independently of one another, and the regulation prescribing terms and conditions of credit sales of livestock to packers would be retained in their present form.

Five policy statements, all pertaining to meat packers, would be retained in their current form under this proposal. A new policy statement with respect to packers engaging in livestock dealing or buying agency activities is proposed.

DATES: Comments must be received on or before November 14, 1983.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the office of Administrator.

FOR FURTHER INFORMATION CONTACT: Harold Davis, Director, Livestock Marketing Division, phone (202) 447-6951, or Kenneth Stricklin, Director, Packer and Poultry Division, phone (202) 447-7363.

SUPPLEMENTARY INFORMATION: This is the fifth group of regulations and policy statements selected for review as set forth in the Revised Plan of Review published in the **Federal Register** (46 FR 35279) by the Packers and Stockyards Administration in July 1981.

In developing this proposal, consideration has been given to the comments filed in response to two earlier publications in the **Federal Register** (44 FR 71802; 45 FR 21168) which outlined the agency's initial plan for review of the existing regulations and policy statements. Consideration has also been given to the recommendations of an internal agency task force which were widely circulated to the livestock, meat, and poultry industries and to the comments received from industry groups and individuals as a result of the circulation of the task force report.

The following proposal would remove regulation § 201.68 (9 CFR 201.68) and policy statement § 203.6 (9 CFR 203.6). Changes are proposed in regulation § 201.67 (9 CFR 201.67) and a new policy statement § 203.19 is proposed regarding packers engaging in livestock dealing or buying agency activities. No changes are proposed to regulations §§ 201.66(a), 201.69, 201.70, and 201.200 (9 CFR 201.66(a), 201.69, 201.70, and 201.200) and policy statements §§ 203.2, 203.7, 203.14, 203.15, and 203.16 (9 CFR 203.2, 203.7, 203.14, 203.15, and 203.16).

Market Agencies Not To Employ Packers

Paragraph (a) of § 201.66 would be retained in its current form. Market agencies selling on commission are prohibited by this regulation from employing a packer, or any person employed by a packer to purchase livestock, to provide any of the market agency's services. Packers, or persons employed by packers to purchase livestock for slaughter, are actual or potential livestock buyers at such market agencies. As such, the market agency selling on commission and the packer or the packer's employed livestock buyer have conflicting interests which are best resolved through the maintenance of an arm's length relationship.

Packer-Dealer Ownership of Selling Agencies.

This notice proposes to amend regulation § 201.67 by removing all reference to dealers owning or financing a market agency selling on commission. The Packers and Stockyards Administration has followed a consistent policy, since Congress broadened the Act in 1958, of accepting dual registration of selling agencies and dealers with the stipulation that no purchases on a dealer basis will be made from consignments to the market agency. This stipulation reinforces the prohibition of proposed regulation § 201.56, which restricts selling agencies from speculating in consigned livestock or having a financial interest in any livestock purchased by another from consignment for speculative resale. The proposed change in regulation § 201.67 will recognize and clarify the Administration's enforcement policy and effectuate the purposes of the Act.

Packer Ownership of Livestock Dealers or Buying Agencies

The 1971 amendments to regulation § 201.68 required the complete business and financial separation of packers, their officers, agents and employees, and persons owning a substantial interest in a packer, from the ownership and/or control of those engaged in the business of purchasing livestock as a dealer or as a market agency. The basic purpose of the 1971 changes was to assure competitive marketing conditions for livestock, thereby avoiding conflict of interest situations and other competitive restraints whch adversely affect livestock producers.

Since that time, the Administration has reviewed and approved certain joint ownership arrangements where no evidence of conflict of interest existed or where the conflict was removed and where the arrangement was not considered harmful to competition.

As a result of these reviews and investigations, the Administration proposes to remove this regulation and add a policy statement § 203.19 to clarify the manner in which the Act will be enforced with regard to such relationships.

Furnishing Information to Competitors

Regulations § 201.69 currently prohibits packers, dealers, and market

agencies buying on commission, from exchanging buying information for the purpose of restricting competiton. No change is proposed in this regulation. This regulation mirrors prohibitions of the antitrust laws and the Packers and Stockyards Act and reinforces the fundamental competitive requirements of the Act.

Competitive Relationships

This proposal would retain regulation § 201.70 in its current form. This regulation sets forth the Packers and Stockyards Administration's position with respect to competition between packers and dealers engaged in purchasing livestock and require that competitors for the purchase of livestock conduct their operations independently and without collusion.

Sale of Livestock to a Packer on Credit

The Administration proposes no change in regulation §201.200. Regulation §201.200 prescribes the terms and conditions under which parties to the purchase and sale of livestock for slaughter may expressly agree in writing to effect payment in a manner other than as required in the prompt payment provisions of the Act. Regulations §201.200, which complements both section 409 (prompt pay) and section 206 of the Act (packer trust), applies to packers whose average annual purchases of livestock exceed $500,000 and to any dealer or market agency acting as an agent for such packer. In a sale of livestock to a packer, an express agreement to extend credit by the seller results in the exclusion of the seller from the benefits of the statutory trust provisions of the Act. For this reason, it would be unfair and deceptive for a packer or a dealer, or market agency buying for a packer, to purchase livestock on credit without the seller expressly agreeing in writing to such credit arrangement and being fully informed of the rights and benefits such seller waives when credit is thereby expressly extended.

Meat Packer Inducement to Government Employees

This proposal would retain policy statement §203.2. The impropriety and implication of fraud and wrong-doing in the giving or offering of gifts and gratuities by packers to Government employees or the soliciting or accepting of such gifts and gratuities by Government employees is fundamental. The Administration proposes to retain this policy statement in its present form to reinforce established standards of ethical conduct.

Packer Purchase of Livestock for Export

Policy statement §203.19, as proposed by this notice, would permit the purchase of livestock by packers for export. Therefore, the useful life of policy statement §203.6 has expired. Deletion of policy statement §203.6 is not intended to discourage livestock exports.

Packer Sales and Purchase Contracts

This proposal would retain section §203.7 of the Statements of General Policy in its current form. This policy statement was issued in 1965 as a result of numerous complaints received by the Administration involving contractual disputes between packers in the purchase and sale of meat and meat food products. Complaints continue to be received and the policy statement has proved useful in achieving informal resolutions of contractual disputes.

Advertising and Promotional Allowance

This proposal would retain section §203.14 of the Statements of General Policy in its current form. This policy statement sets forth the Packers and Stockyards Administration's position with respect to the use of advertising allowances and other promotional services in connection with the sale of a packer's meat and meat food products. This policy statement provides guidelines for the industry to assist competing firms in complying with the Packers and Stockyards Act.

Packer Trust

This policy statement was issued as a result of the 1976 amendments to the Act and remains current. No change is proposed in policy statement §203.15. Section 206(b) of the Packers and Stockyards Act requires a seller to give notice in writing to the packer and file such notice with the Secretary in order to preserve his statutory trust rights. This policy statement outlines the manner in which a seller can satisfy the notification requirements.

Mailing of Checks in Payment for Slaughter Livestock

No change is proposed in policy statement §203.16, also issued as a result of the 1976 amendments. If a seller of livestock agrees that payment may be made by mailing a check, within the time limits as provided in section 409(a) of the Act, whether or not such seller is present at the point of transfer of possession to achieve such check, such mailing agreement would not constitute an express extension of credit within the meaning of section 206(c) of the Act. The sale would not be transformed into a credit transaction because the purchaser must issue the check within the time limits of section 409 of the Act. Furthermore, Senate Report No. 94-932 of the Committee on Agriculture and Forestry, focusing on the 1976 amendments, recited at page 12, "Nothing in (section 409 of the Act) would preclude a packer and a producer from agreeing in writing that the packer may transmit through the mails, by the close of the next business day, payment for livestock purchased. *Such action would not result in the producer being considered a credit seller.*" This policy statement clarifies the well-established custom of the industry that a sale of livestock in which payment is to be made by a check mailed the next business day following purchase and determination of the price, is a cash transaction involving no extension of credit by the seller to the purchaser.

Executive Order

It has been determined that the proposals to amend the regulation relating to packers or dealers owning or financing selling agencies, to remove the regulation concerning packer ownership of dealers or market agencies buying on commission, and to remove the policy statement concerning the purchasing of livestock by packers for export as proposed herein are not "major" rules as defined by section 1(b) of E.O. 12291.

The proposed rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, Government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these proposals will not have a significant economic impact on a substantial number of small entities.

These proposals will remove some restrictions on the business activities of packers, dealers, and market agencies subject to the Act.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the reporting and recordkeeping provisions that are included in this rule

have been approved by the Office of Management and Budget (OMB) and have been assigned clearance number 0590-0001.

List of Subjects in 9 CFR Parts 201 and 203

Trade practices.

(7 U.S.C. 228, 7 U.S.C. 228b, 7 U.S.C. 222, 15 U.S.C. 46)

Done at Washington, D.C., September 12, 1983.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 203—[AMENDED]

§ 203.6 [Removed]

1. It is proposed to remove § 203.6 (9 CFR 203.6).

2. It is proposed to retain §§ 201.69, 201.70, and 201.200 (9 CFR 201.69, 201.70, and 201.200), and §§ 203.2, 203.7, 203.14, 203.15, and 203.16 (9 CFR 203.2, 203.7, 203.14, 203.15, and 203.16).

3. It is proposed to revise § 201.66 (9 CFR 201.66) to read as set forth below:

§ 201.66 Market agencies not to employ packers or persons employed to purchase livestock for a packer.

No market agency shall employ or permit any packer, or any person employed by a packer to buy livestock to perform any duty in connection with the services furnished by such market agency.

4. It is proposed to revise § 201.67 (9 CFR 201.67) to read as set forth below:

§ 201.67 Packers not to own or finance selling agencies.

No packer subject to the Act shall have an ownership interest in, finance, or participate in the management or operation of a market agency selling livestock on a commission basis, nor shall such a market agency permit a packer to have an ownership interest in, finance, or participate in the management or operation of such market agency.

5. It is proposed to add a new § 203.19 (9 CFR 203.19), to read as set forth below:

§ 203.19 Statement with respect to packers engaging in the business of livestock dealers or buying agencies.

(a) In its administration of the Packers and Stockyards Act, the Packers and Stockyards Administration has sought to prevent conflicts of interest and to maintain open and fair competition in the livestock and packing industries. The ownership or operation of livestock dealers or buying agencies by packers, under some circumstances, may result in violations of the Packers and Stockyards Act.

(b) Traditionlly, livestock dealers and buying agencies purchase livestock for resale or to fill orders for farmers, ranchers, producers, other livestock firms and packers. When a livestock dealer or buying agency is owned or operated by a packer, and when such packer is also buying livestock for its own operational requirements, there is a potential conflict of interest. Furthermore, the purchase and sale of livestock by meat packers may result in control of markets and prices which could adversely affect both livestock producers, competing packers, and consumers.

(c) Arrangements between packers and dealers or buying agencies which do not normally create a conflict of interest or result in a restraint of competition include: (1) Operations utilizing different species or classes of livestock; (2) operations where the business activities are widely separated geographically; and (3) operations where tie-in purchases or sales are not involved. Packers contemplating engaging in the business of a livestock dealer or buying agency are encouraged to consult with the Packers and Stockyards Administration prior to the commencement of such activities.

(d) In the event a packer/dealer or a packer/buying agency arrangement appears to give rise to a violation of the Act, an investigation will be made on a case-by-case basis and, where warranted, appropriate action will be taken.

[FR Doc. 83-25235 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 83-013P]

Chiller Water Reuse

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal poultry products inspection regulations to permit operators of poultry processing establishments the option, if specific controls are maintained, of reducing the amount of fresh water intake required for continuous poultry chillers. Owners or operators of poultry establishments desiring to use water reconditioning in their chilling systems could request that the Administrator evaluate their systems to determine whether they can operate using a reduced fresh water intake plan. Implementation of the proposed regulation should help conserve fresh water without resulting in increased costs or threatening the wholesomeness of the product.

DATE: Comments must be received on or before November 14, 1983.

ADDRESS: Written comments to: Regulations Office, Attention: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments regarding the proposal may be directed to Dr. John C. Prucha, (202) 447-3219. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Polutry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219. Copies of the Department's DE Filtration test results and the footnoted materials are available for inspection in the Regulations Office or may be obtained by contacting Dr. Prucha.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is issued in conformance with Executive Order 12291, nad has been determined not to be a "major rule." The proposed rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or 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.

The proposed rule would place no additional requirements on the poultry processing industry. It would provide an alternative processing method which would result in less water and energy use, and a reduced burden on private and municipal effluent disposal facilities, while maintaining sanitary conditions that are at least as effective as those provided under current procedures. The option would benefit the public by reducing the stress on available water supplies, by reducing the discharge into the environment of waste matter which taxes existing

treatment facilities, and by placing less demand on declining energy sources. Further, costs related to water use, chilling, and disposal would be reduced.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The proposal places no new requirements on the poultry industry. It should allow processors to reduce the costs associated with high water consumption and disposal.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments should be submitted in duplicate to the Regulations Office and should reference the docket number appearing in the heading of this document. Any person desiring an opportunity to make an oral presentation should contact Dr. Prucha so that the appropriate arrangements may be made. Transcripts will be made of all such presentations. All comments will be available for inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Freshly slaughtered poultry is cooled immediately after slaughter to prevent spoilage. The chilling is generally accomplished by immersing the carcasses in large tanks of chilled water so that the internal temperature is reduced to 40° F. within a specified time period (9 CFR 381.66(b)(1)). The movement of the chilled water over the carcass is designed to aid the transfer of heat from the carcass surfaces. The purpose of the system is to reduce the temperature of the carcass, not to clean it. The poultry carcasses are already washed and considered ready-to-cook before they enter the chilling system.

The carcasses do, however, carry some bacteria which are washed off by the water movement of the chilling system. This rinsing action of the chilling system, if allowed to continue without intervention, would result in ever-increasing numbers of bacteria in the chill water. As those numbers increase, the rinsing action of the water would become less and less effective, and eventually would actually become a contaminating influence. To prevent this, the regulations require the addition of a certain amount of fresh water for each incoming carcass. As fresh water enters the chilling system, microbe laden water is discharged. The incidental washing effect of the chilling system water and the continual addition of fresh water to the system have been shown to reduce the bacterial level on the carcasses and to increase shelf-life.

The amount of fresh water which must be added to the chilling system is determined on a per carcass basis (9 CFR 381.66(c)(2)(ii)). At the time these levels (1 gallon per turkey, ½ gallon per fryer chicken) were established, water supplies seemed limitless, and the disposal of this water did not appear to be a problem. However, water has since become a scarce resource in many places, and the disposal of large amounts of waste water is of economic and environmental concern.

Prior Action

The Department published a proposed rule (43 FR 14043) in April 1978, that would have lowered the presently required amount of fresh water intake in continuous poultry chillers by 50 percent, provided the incoming water contained 20 parts per million (ppm) available chlorine. This was based, in part, on work performed at the Virginia Polytechnic Institute and State University (VPI) which indicated that fresh water intake levels could be lowered by 50 percent with no significant effect on the wholesomeness of the poultry or that of the chill media. Subsequent to VPI's study, the Department undertook field studies to determine if the required water intake levels could be adjusted. The field studies concentrated on the relationship of water intake with the microbiological quality of the poultry and that of the chill media. The results of the field studies showed that the bacteria remaining on representative carcasses that had been removed from the chill tanks tended to be greater when intake water was reduced. This violated the Department policy that bacteria be kept to minimal levels.

The Department was aware of the well documented bactericidal properties of chlorine on bacterial cells in general, and on Salmonellae in particular. From this, the Department proposed a 50 percent water reduction in continuous poultry chillers if intake water included 20 ppm available chlorine.

Commenters to the 1978 proposal contended that it was not in the best interest of consumers. One commenter stated that "* * * the proposal would depreciate the protection afforded consumers as the increased potential for cross contamination resulting from a reduction in water-flow would not be offset by the use of 20 ppm chlorinated water * * *" and "* * * the spread of Salmonellae between birds would be encouraged and the mandatory use of chlorine at ingoing concentrations fo 20 ppm would have little effect upon the increased concentration of Salmonellae * * *."

As a result of concerns over the efficacy of the 20 ppm chlorine proposal, the rule was never finalized, but neither has it been withdrawn. This is not an attempt to withdraw that proposal as experimental work may still be conducted to demonstrate its validity. This is a new proposal that incorporates another approach for reducing the amount of the fresh water intake required for continuous poultry chillers.

Proposal

The Department has continued to examine ways of reducing fresh water requirements. For example, the Department has investigated the use of diatomaceous earth (DE) filters for the removal of organic matter from poultry chiller water. Diatomaceous earth filtration of chiller water was first studied in 1978 by the Environmental Protection Agency which reported that DE filtration was successful in removing bacteria from chiller water.

At the suggestion of a turkey processor, the Department conducted additional tests of DE filtration, in cooperation with that processor and the National Turkey Federation. These tests confirmed that DE filtration is capable of significantly reducing the bacterial level of the chiller water.

The findings have, in part, prompted issuance of this proposal. It would allow a reduction in the amount of fresh water intake required in continuous poultry chillers, provided the remaining intake is supplemented by reconditioned chiller water of such quality and at such volumn to assure that the bacerial load on the carcasses exiting the system will not be greatler than under the current intake requirements. Additionally, the proposal includes a margin to accommodate an approximate 10 percent variability in the efficacy of the treatment. While this factor is intended to provide a margin for potential variability in a chilling system at any given time, it in fact would have the added effect of causing a cumulative reduction in the microbial content of the chiller water greater than that achieved by the existing fresh water replacement requirement.

As previously mentioned, the proposal is based on tests conducted utilizing DE filtration, but the type of water reconditioning treatment to be used is not specified. However, the proposal would require that a proposed and

tested treatment attain a minimum of at least a 60 percent reduction in micro-organisms, and the maintenance of light transmission of no less than 60 percent of that of fresh water. The Department's tests of a DE filtration system demonstrate that this is an achievable result.

Under this proposal, as the efficacy of the water treatment increases, the amount of treated water required to permit a reduction of a gallon of fresh water decreases. At the minimum approval level (60 percent reduction in micro-organisms and 60 percent light transmission) 1.75 gallons of treated water would be required to permit a reduction of one gallon of fresh water. At a level of 90 percent reduction in micro-organisms and 80 percent light transmission, 1.25 gallons of treated water would permit a reduction of one gallon of fresh water.

The proposal would help conserve natural resources. Less fresh water would be used, and, therefore, less energy would be needed to chill the water. Additionally, because less water would be discharged, stress on effluent disposal systems would be reduced. The Department's tests have demonstrated that these economic and environmental advantages would be available without sacrificing shelf-life and product safety. Micro-organism levels in the water would be kept to a minimum by replacing fresh water with higher levels of treated water. This would result in at least as clean a chill medium as exists under the current system. In addition, use of the proposed procedure would require evidence that treatment of the chill water would be maintained throughout the operating shift.

List of Subjects in 9 CFR Part 381

Poultry and poultry products, Chiller water.

Accordingly, the Federal poultry products inspection regulations (9 CFR Part 381) would be revised to read as follows:

PART 381—[AMENDED]

1. The authority citation for Part 381 is as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b), Federal Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

2. Section 381.66(c)(2) (9 CFR 381.66(c)(2)) would be amended by adding a new paragraph (vi) to read as follows:

§ 381.66 Temperatures and chilling and freezing procedures

* * * * *

(c) * * *

(2) * * *

(vi) Any owner of operator of an official establishment desiring to utilize a chilling system which includes water reconditioning may request the Administrator to evaluate the system to determine whether a reduction in fresh water intake requirements will be permitted: Provided, that the equipment related to the systems has been approved under § 381.53 of Subpart H of this subchapter, that operation of the system results in full compliance with the Act and this subchapter, and that the system permits effective and efficient monitoring. The Administrator shall approve requests in accordance with the following standard:

Minimum percent reduction of micro-organisms in treated water	Minimum percent light transmission in treated water	Gallons of reconditioned water to replace 1 gallon of fresh water
60	60	1.75
70	70	1.50
80	80	1.35
90	80	1.25
98	80	1.10

Requests for approval must include:

(A) Information specifying the equipment, as approved under § 381.53, materials, and conditions of use incident to the system. Items which must be so specified include filters; rate of flow; pressures and/or vacuums required for suitable operation; point of exit from the chilling units of water to be reconditioned; point of entry into the chilling units of the reconditioned water; frequency of filter changes, back-flushing, or other system restoration; post-filter treatment; and any other condition the alteration of which could affect the effectiveness of reconditioning; and

(B) Data demonstrating that reconditioning results in achieving and maintaining throughout the operating shift at least a 60 percent reduction in total micro-organisms, that such reduction relates within ±10 percentage points to a similar reduction in any *coliforms,* [1] *Esherichia coli* [2] and/or *Salmonella spp.* [3] that may be present; and that light transmission of the treated water is maintained throughout the operating shift at no less than 60 percent of that of the fresh water supply.

* * * * *

Done at Washington, D.C. on September 1, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-25239 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-DM-M

[1] Five tube most probable number (MPN) following procedures in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.4 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[2] Five tube most probable number (MPN) using procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 3.5 using 5 replicate tubes of each dilution; and computed using standard MPN tables.

[3] Most probable number (MPN) per 100 ml by 3 tube MPN. To each of 3 100, 10, 1, and 0.1 ml sample portions, an equal volume of double strength lactose broth containing 1.2% Tergitol 7 is added. Then determined by procedure in Microbiology Laboratory Guidebook, FSIS, USDA, January 1974, Section 4.0; and computed using standard MPN tables.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-10]

State of New Jersey; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of petition for rulemaking (PRM-50-10) filed by the State of New Jersey.

SUMMARY: The Commission is withdrawing, at the petitioner's request, a petition for rulemaking (PRM-50-10) that was filed by the State of New Jersey. In the petition, which was dated March 27, 1974 (and in a supplement to the petition dated June 10, 1974), the State of New Jersey had requested that the Commission amend its regulations in 10 CFR Parts 30, 40, 50, 55, 70, and 100 to increase the level of assurance that accidents at nuclear facilities can be prevented and, in the event of an accident, to ensure that the consequences are mitigated.

ADDRESSES: A copy of the petitioner's letter of withdrawal is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petitioner's letter of withdrawal may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

SUPPLEMENTARY INFORMATION: In **Federal Register** notices published on

May 6, 1974 (39 FR 15900), and July 11, 1974 (39 FR 25525), the Commission announced the receipt of and requested comments on a petition for rulemaking (PRM-50-10) filed by the State of New Jersey. The petitioner requested that the Commission amend its regulations in Parts 50 and 70 to require that licensees who routinely handle large quantities of byproduct material be made subject to emergency planning requirements and, in addition, to require that these licensees clearly identify the material involved, exposure pathways, and populations at risk as a result of licensed activities. In Part 100, the petitioner requested that the exclusion area criteria be amended, the population zone criteria be reviewed, and that radiation release protective action levels set by EPA or individual states be incorporated by reference. The petitioner also requested that the exclusion of "Class 9 accident" from consideration in reactor licensing procedures be eliminated when new or novel siting or design considerations are involved, and that due consideration be given to counter measures for the "Class 9 accident". Finally, the petitioner asked that reactor operators be required to undergo training and periodic reexamination and that the scope of Part 55 be expanded to cover health physicists assigned to reactor sites and operators of waste disposal facilities.

The petitioner subsequently withdrew the requested change concerning reactor personnel qualification and agreed that the requested change concerning health physicists was satisfied by the Commission's issuance of regulatory guides. Part of the petitioner's request concerning emergency planning for Part 70 licensees was addressed in a final rule published in the **Federal Register** on March 31, 1977 (42 FR 17125).

The petitioner's request concerning emergency planning for Part 50 licensees was incorporated into a final rule published in the **Federal Register** on June 3, 1981 (46 FR 29712).

Those issues raised by the petitioner that are not covered by the NRC actions discussed above are the items withdrawn by the petitioner.

Dated at Bethesda, Maryland this 7th day of September 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-25248 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 211 and 302

[EDR-467; PDR-85; Dockets Nos. 41666, 39638]

Applications for Permits to Foreign Air Carriers and Rules of Practice in Board Proceedings

August 26, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to revise its requirements and procedures for applying for foreign air carrier permits. The revision would reduce the information submitted in the application and the number of persons on whom the application must be served. Service of applications would also be reduced for U.S. air carrier certificate applicants. The changes proposed will simplify the processing of these applications for both the Board and U.S. and foreign air carrier applicants.

DATES: Comments by: November 14, 1983. Reply comments by: December 5, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: September 26, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41666, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, 202-673-5134, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: The Board's rules for the content of, and the procedures for submitting applications for foreign air carrier permits are in 14 CFR Part 211 and Subpart Q, Part 302. Part 211 sets out the information required and the manner in which applications must be sent to the Board. Among other things, Subpart Q lists the persons to whom a notice of a permit application must be sent when filed.

These proposed changes to Part 211 would reduce and revise the information requirements for permit applications, especially for those carriers seeking renewal or amendment of an existing permit. Many applications include information that is superfluous, or no longer needed by the Board, for example, maps, specimen permits, and proof of incorporation. Some information now filed, such as detailed description of insurance coverage, although important, is now required by other Board rules. Also, information currently filed regarding maintenance of aircraft and financial data are overly detailed, when a more general statement or summary would satisfy the Board's needs in most cases. In addition, new applicants would no longer have to submit as detailed statements of key managers' non-aviation business experience as they do now; renewal applicants no longer would have to furnish such information. Statements regarding the acceptance of certain standard permit conditions are unnecessary and are eliminated, since all permits impose those conditions, and most are the subject of explicit filing requirements elsewhere. Furthermore, carriers would be allowed greater use of incorporation by reference of information submitted to the Board in previous permit applications. The Board may, if needed, ask for additional information from individual carriers.

The information requirements would be simplified for clarity. This format should result in better quality applications, which should in turn result in fewer cases being deferred or rejected for not fully complying with Board rules. The proposal would also ease the processing burden on the Board, resulting in quicker action on permit applications.

Subpart Q of Part 302 of the Board's rules sets procedures for expedited treatment of certain cases. Among those cases are applications for foreign air carrier permits under section 402 of the Act and for U.S. carrier certificates under section 401. Those rules list persons on whom the applications or notices of applications must be served. The list includes U.S. air carriers serving the point where the carrier would operate, and State and local authorities in the United States for that point.

The proposal would substantially reduce these service requirements. Because of the existing requirement, many service lists attached to applications are now quite lengthy. The Board tentatively believes that the

present service list is overly burdensome. In most cases, less than a dozen parties are affected by the operations proposed in an application. In addition, the proposal would relieve U.S. air carriers from the requirement to serve the entire application of all parties. An applicant would be required to serve only a notice of its application. The notice procedure is now used for foreign air carrier permit applications.

Under the proposal, in certificate proceedings, applicants would have to serve local airport authorities for the city-pair market requested, and if the application is for scheduled service, those U.S. carriers that serve the city-pair in question and publish those schedules in the OAG. Applications filed by U.S. carriers for charter-only operations would be filed with the Board's Docket Section. This proposed change would confirm the Board's waiver of service requirements for those carriers in Order 82-9-97, dated September 23, 1982. In foreign air carrier permit cases for scheduled services, the applicant would have to serve the Departments of State and Transportation and U.S. carriers for the country-pair market sought. Foreign carriers seeking charter-only authority would be required to serve the Departments of State and Transportation.

This reduced list will enable the Board and the applicant to ensure that the service requirements have been met. There will still be Federal Register notice of the authority sought. The name of the applicant will also continue to be published by the Board each week. The proposal, combined with those continued publications, should thus allow U.S. carriers and other interested parties to be well informed and to make any comments or objections they think necessary.

The change to relieve U.S. air carriers from the requirement to serve the entire application on all parties and substitute a notice requirement was originally proposed in PDR-75 (46 FR 29718, June 3, 1981, Docket 39638). Since over 2 years have passed since that notice, we are proposing the change again, but in slightly altered form. Docket 39638 is being merged into this rulemaking. Re-publication will allow commenters to consider those proposed changes in conjunction with the other proposed changes in service requirements.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, Board certifies that none of these proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. Small U.S. air carriers are exempt as air taxi operators for certification under section 401 and thus have no document service requirements. The majority of small foreign air carriers are Canadian charter air taxi operators and follow a simplified registration requirement instead of the rules affected by these changes.

Paperwork Reduction Act

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. Those requirements have been submitted to the Office of Management and Budget (OMB) for review and comment. Persons may submit comments on the collection-of-information requirements to OMB and to the Board. Comments sent to OMB should be addressed to: Office of Information and Regulatory Affairs, ATTN: Desk Officer for Civil Aeronautics Board, Office of Management and Budget, Washington, D.C. 20530.

List of Subjects in Parts 211 and 302

Administrative practices and procedures, Air carriers, Air rates and fares, Air transportation—foreign, Authority delegations, Postal Service.

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 211, *Applications for Permits for Foreign Air Carriers,* and Part 302, *Rules of Practice in Board Proceedings,* as follows:

1. Part 211 would be revised to read:

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

Subpart A—General

Sec.
211.1 Purpose.
211.2 Applicability.

Subpart B—General Requirements

211.10 Filing specifications.
211.11 Verification.
211.12 Filing and service.
211.13 Amendments to applications.
211.14 Incorporation by reference.
211.15 Statements of fact.

Subpart C—Information Requirements

211.20 Initial foreign air carrier permit or transfer of a permit.
211.21 Amendments or renewal of foreign air carrier permits.

Authority: Secs. 204, 402, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771, 788 (49 U.S.C. 1324, 1372, 1386, 1481, 1482).

Subpart A—General

§ 211.1 Purpose.

This part sets forth the filing and evidence requirements for foreign air carriers applying for authority to engage in foreign air transportation under section 402 of the Federal Aviation Act.

§ 211.2 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to all foreign air carriers seeking initial foreign air carrier permits or the transfer, renewal, or amendment of an existing foreign air carrier permit.

(b) Canadian charter air taxi operators, foreign indirect air carriers of property, and foreign charter operators are not required to submit applications under this part. Instead, Canadian charter air taxi operators shall register under Part 294 of this chapter, foreign indirect air carriers of property shall register under Part 297 of this chapter, and foreign charter operators shall register under Subpart F of Part 380 of this chapter.

Subpart B—General Requirements

§ 211.10 Filing Specifications.

(a) Except as provided in paragraph (b) of this section, applicants shall follow the requirements in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers.

(b) Mexican air taxi operators filing applications for foreign air carrier permits authorizing charter flights across the Mexico-United States border with small aircraft (a maximum passenger capacity of 60 seats of less, or a maximum payload capacity of 18,000 pounds or less) shall file an original and two copies of the application. The application shall conform to the instruction document available from the Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

(c) An application shall have consecutively numbered pages, and shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits are part of the application to which they are attached.

(d) Applications shall state all weights, measures and monetary units in U.S. terms, and all verbal material in English.

§ 211.11 Verification.

Applications shall be verified and subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in

which the application is executed. An application verified before a United States consular officer meets the requirements of this section.

§ 211.12 Filing and service.

All types of applications for foreign air carrier permits (initial, renewal, amendment, or transfer) are filed as of the date the applications are received at the Board's Docket Section. Each applicant shall serve those persons as required in Part 302, Subpart Q, of this chapter.

§ 211.13 Amendments to applications.

An applicant shall submit any information required by this Part that is omitted from the original application, or any additional information, as an amendment to the original application. Applicants shall consequently number amendments to applications and shall comply with the requirements of this subpart.

§ 211.14 Incorporation by reference.

Where two or more applications are filed by a single carrier, the applicant may incorporate lengthy exhibits, or other documents attached to one application, into the others by reference. The applicant may not incorporate by reference and update any information from a previous docket unless submitted within the past 2 years. The applicant must identify the docket, the page number or exhibit number being incorporated, and state that there has been no change in that information since submitting the original information.

§ 211.15 Statements of fact.

The applicant shall include only significant and relevant facts in an application. Each application shall contain adequate information with respect to the evidence required in Subpart C of this part. The application may contain other information and data as the applicant considers necessary to explain particular circumstances of a case.

§ 211.16 Oral hearing.

If an oral evidentiary hearing is convened, the applicant must make available witnesses who are competent and able to testify to the accuracy of the statements and documents submitted.

Subpart C—Information Requirements

§ 211.20 Initial foreign air carrier permit or transfer of a permit.

A person applying for an initial foreign air carrier permit or the transfer of a permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation, and include substitute information most closely approximating the information requested. The Board may require an applicant to provide additional information as the facts of the situation warrant.

(a) State the name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and, if other than an individual, the name of the country under the laws of which it is organzied and the statutory citation of such laws, if any.

(b) State the name and official address of the government air transport authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

(c) Supply the following information regarding the services proposed:

(1) A complete statement of the authority sought; and

(2) A description of the services proposed, specifying:

(i) The point or points proposed to be served in the United States;

(ii) The frequency of service planned at the start of operations, indicating any seasonal variations; whether the service proposed is to be scheduled, non-scheduled or charter; whether the service would be passenger, or property and mail, or a combination; and the type of equipment (and configuration) to be used; and

(iii) A service schedule stating the manner in which the service will be operated (e.g., nonstop or multi-stop, and identity of proposed intermediate traffic and non-traffic points).

(d) Provide the names, addresses (both residence and business), and citizenship of all Directors, Officers and key management personnel, including the President, Vice Presidents, the Directors or Supervisors of Operations, Maintenance, and Finance, and the chief pilot and chief inspector. Indicate whether any of these persons are related by blood or marriage.

(e) Provide the names and citizenship of all persons holding five percent (5%) or more of the capital stock or capital of the applicant. Also indicate the number and percentage of shares of stock or percentage of capital held by each. If five percent or more of the applicant's stock is held by a corporation or partnership, set forth the name and citizenship of each person holding five percent or more of the entire capital stock or capital of that corporation or partnership and the respective interest of each. If any of the shares are held for the benefit of another person, give the name and citizenship of that person.

(f) If the applicant is not wholly owned by its homeland Government, state whether the applicant (each officer, director, manager, or holder of five percent or more of the capital stock) holds an interest directly or indirectly (through brokers or holding companies) in any of the entites cited below. If no interest is held, so state.

(1) Any U.S. carrier;

(2) Any other foreign air carrier;

(3) Any persons engaged in the business of aeronautics; and

(4) Any common carrier, or any person whose principal business is the holding of stock in, or control of, any air carrier.

(g) Indicate the relationship between the applicant and its homeland Government. If the applicant is wholly owned or substantially owned by the Government, indicate which governmental department has responsibility for managerial decisions.

(h) State whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR Part 205. State the name(s) of its insurance carrier(s).

(i) Supply certified evidence, in English, of the applicant's operating authority issued by its Government that relates to the operations proposed. This evidence must include a description of the applicant's present authority, the expiration date of this authority, and the manner in which it is expected to be renewed.

(j) Summarize the operating history of the applicant. Include the types of transportation services rendered, points served, etc., from the beginning of operations to present. Also, if the applicant is a new airline (*i.e.*, an airline that began direct air services within the past 12 months), briefly summarize the business experience of each Officer, Director and key management personnel, emphasizing any air transportation experience.

(k) Provide a list of the aircraft owned, leased and operated by the applicant. State each aircraft registration number and the country of registration. If leased, state the address and citizenship of each lessor. Describe any plans for the acquisition or lease of additional aircraft if the present permit application is granted as proposed. If any of the listed aircraft will not be used exclusively by the applicant, explain its proposed use. State whether any aircraft are or will be wet-leased.

(l) State where and by whom the maintenance of the aircraft is or will be performed. State whether the applicant's maintenance program complies with the provisions of I.C.A.O. Pilots and Airmen

Annexes 1, 6 (Part 1) and 7. Also state whether the applicant's home country is a contracting State to the Convention on International Civil Aviation.

(m) Briefly describe any agreements or cooperative working arrangements (*e.g.*, block-space, wet-lease), both oral and written, entered with and between the applicant, or on behalf of the applicant, and any United States or foreign air carrier, affecting the proposed services to the United States that are not on file with Board. If there are no such agreements, so state.

(n) Supply certified copies of financial data summaries, setting forth in U.S. dollars the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal). These summaries must include the following data, but need not be more detailed than the financial data summaries published by I.C.A.O.:

(1) The profit and loss statement summary shall identify:

(i) Total air transport operating revenues (separated into three categories; passenger, cargo, and other air transport revenues);

(ii) Total air transport operating expenses;

(iii) Operating result (difference between paragraphs (n)(1) (i) and (ii) of this section);

(iv) Non-operating items; and

(v) Profit or loss after income taxes.

(2) The balance sheet summary shall state and identify:

(i) Current assets;

(ii) Flight equipment (after depreciation);

(iii) Other assets;

(iv) Total assets (sum of paragraphs (n)(2) (i) through (iii) of this section);

(v) Current liabilities;

(vi) Other liabilities;

(vii) Long-term debt;

(viii) Capital stock;

(ix) Retained earnings (balance including capital and surplus); and

(x) Total liabilities and equity (sum of paragraphs (n)(2) (v) through (ix) of this section).

(o) Describe the amount, type and reason for financial assistance received or expected from the applicant's home Government, if any.

(p) Submit an estimate showing the total traffic and the financial results of the proposed services for the first full year of normal operations and the supporting data employed to calculate the financial forecast.

(q) If the air transportation proposed is not covered by an air transport agreement, state in narrative form each of the elements of reciprocity or comity relied upon for the requested authority. If the authority requested is governed by an agreement, state whether the applicant has been formally designated by its homeland Government, and if so, cite the diplomatic note.

(r) To the extent not described in paragraph (q) of this section, state the policy of the applicant's homeland Government with respect to U.S. carriers' applications for scheduled and charter authority. Specifically state whether the homeland Government grants Fifth Freedom traffic rights to U.S. carriers.

(s) For preceding 5 years, state whether the applicant has been involved in any safety or tariff violations or any fatal accidents. If so, furnish details.

(t) Submit three (3) completed copies of CAB Form 263 (waiver of liability limits under the Warsaw Convention).

§ 211.21 Amendments or renewal of foreign air carrier permits.

A person applying for an amendment of renewal of a foreign air carrier permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation and include substitute information most closely approximating the information requested. The Board may require an applicant to provide additional information as the facts of the situation warrant.

(a) The information requested in paragraphs (a), (b), (i) (o), (q), (r), and (s), of § 211.20

(b) Except if asking for renewal of existing authority, the information specified in paragraphs (c) and (p) of § 221.20 regarding the new or altered services proposed to be operated.

(c) If the financial material for the applicant on file with the Board is more than 2 years old, certified copies of financial summaries setting forth, in U.S. dollars, the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal) as required in paragraph (n) of § 211.20. If the financial material on file with the Board is 2 years old or less, the applicant may incorporate that information by reference following the procedures described in § 211.14 of this part.

(d) If the ownership and control of the applicant are substantially unchanged, a sworn affidavit to that effect. If a change has occurred, the applicant must respond to the appropriate paragraph in § 211.20 that most closely relates to the change that has taken place.

(e) A sworn affidavit that applicant's maintenance program continues to comply with the provisions of I.C.A.O. Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

PART 302—SUBPART Q

2. Paragraphs (a) and (b) of 302.1705 would be revised to read:

§ 302.1705 Service of documents.

(a) *General Requirements.* (1) Applicants shall serve on the persons listed in paragraph (b) of this section a notice that an application has been filed, and upon request, shall promptly provide those persons with copies of the application and supporting documents. The notice must clearly state the authority sought and state the due date for other pleadings. Persons shall file responsive pleadings in accordance with paragraph (b).

(2) After the order establishing further procedures under § 302.1750 has been issued, persons need only serve documents on those listed in the service list accompanying the order.

(3) In the case of an application sought to be consolidated, the applicant shall serve the notice required in paragraph (a) of this section on all persons served by the original applicant.

(b) *Persons to be served.* (1) *U.S. air carriers.* In certificate proceedings described in §§ 302.1701(a) and 302.1701(b) (except for those proceedings under section 401(d)(3) of the Act), applicants and other persons shall serve: (i) All U.S. air carriers (including commuter air carriers) that provide service in the city-pair market specified in the application and that publish schedules to that effect in the "Official Airline Guide" or in the "Air Cargo Guide," (ii) the airport authority of each U.S. airport that the applicant proposes to serve, and (iii) any other person who has filed a pleading in the docket.

(2) *Foreign air carriers.* In foreign air carrier permit proceedings described in § 302.1701(c), (except for those proceedings involving charter-only authority), applicants and other persons shall serve: (i) All U.S. air carriers (including commuter air carriers) that provide service in the country-pair market specified in the application and that publish schedules to that effect in the "Official Airline Guide" or in the "Air Cargo Guide," (ii) the U.S. Departments of State and Transportation, and (iii) any other person who has filed a pleading in the docket.

(3) Foreign air carrier permit applicants for charter-only authority and other persons shall serve the Departments of State and

Transportation and any person who has filed a pleading in the docket.

* * * * *

(Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794 (49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485); Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402, unless otherwise noted)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-25274 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-185; New Mexico-21]

High-Cost Gas Produced From Tight Formations; New Mexico; Correction

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule correction.

SUMMARY: This document corrects a Notice of amendment in Docket No. RM79-76-185 (New Mexico-21) that appeared in the **Federal Register** on May 6, 1983 (48 FR 20432). This action corrects an error in the delineation of the formation described in the notice.

FOR FURTHER INFORMATION CONTACT: Tom Rattray, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8476.

The following correction is made in FR Doc. 83-12234 appearing on pages 20432-33 of the issue of May 6, 1983:

On page 20433, column 1, first full paragraph, lines 4 and 5, the delineation is corrected to read "Townships 6 through 11 South, Range 21 East".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24964 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-213 (Texas-2 Addition II)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Canyon Sandstone Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on October 27, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Leslie Lawner (202) 357-8511, or Walter W. Lawson (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: September 12, 1983.

I. Background

On August 8, 1983, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703(1983)), that an additional area of the Canyon Sandstone Formation in Irion County, Texas, be designated as a tight formation. The Commission previously adopted a recommendation that the Canyon Sandstone Formation in Crockett, Edwards, Schleicher, Sutton, Terrell and Val Verde Counties, Texas be designated as a tight formation (Order No. 117, issued December 17, 1980, in Docket No. Rm79-76 (Texas-2) and currently has under consideration a recommendation that an additional area of the Canyon Sandstone Formation in the KWB (Canyon) Field in Tom Green County be designated as a tight formation (Docket No. RM79-76-200 (Texas-2 Addition) Notice of Proposed Rulemaking issued June 15, 1983). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that an additional area of the Canyon Sandstone Formation in Irion County be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends the Canyon Sandstone Formation located in Irion County, Texas, Railroad Commission District 7C, be designated as a tight formation. The recommended area of the Canyon Sand is all of the portion of Irion County, Texas, which lies to the east of a straight line directed between the junction of Crockett, Schleicher, and Irion Counties at the south end of the line and the junction of Reagan, Tom Green, and Irion Counties at the north end of the line.

In a type log, the John H. Hill, McManus No. 1 well located in the northcentral part of Irion County in Section 35, Block 6, H&TC RR. Co. Survey, the Canyon Sandstone Formation is that interval from 6,290 feet to the top of the Strawn Formation at 7,870 feet. The top of the formation dips at a rate of approximately fifty feet per mile in a west-southwest direction across the recommended area.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing on April 22, 1983, convened by Texas on this matter demonstrates that:

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

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

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

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

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

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 27, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–213 (Texas—2 Addition II) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol. Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore requèst a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(10)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(10) *Canyon Sandstone Formation in Texas.*

RM9–76 (Texas—2)

* * * * *

(iii) *Irion County—*

(A) *Delineation of formation.*

The Canyon Sandstone Formation is located in all of the portion of Irion County which lies to the east of a straight line directed between the junction of Crockett, Schleicher, and Irion Counties at the south end of the line and the junction of Reagan, Tom Green, and Irion Counties at the north end of the line.

(B) *Depth.*

The Canyon Sandstone Formation is that interval from 6,290 feet to the top of the Strawn Formation at 7,870 feet shown on the electric log of the John H. Hill, McManus No. 1 well located in the north central part of Irion County in Section 35, Block 6, H&TC RR. Co. Survey. The top of the formation dips at a rate of approximately 50 feet per mile in a west-southwest direction across the designated area.

[FR Doc. 83–25190 Filed 9–14–83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 22

Liquidation of Drawback Claims; Extension of Time for Public Comment

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comment.

SUMMARY: This notice extends the period of time within which interested members of the public may submit written comments with respect to an advance notice of proposed rulemaking relating to liquidation of drawback claims filed with Customs. A document inviting the public to comment on the proposal was published in the **Federal Register** on July 5, 1983 (48 FR 30668). Comments were to have been received on or before September 6, 1983.

Customs has been requested to extend the comment period because of the many issues raised and the need to solicit views from members of trade associations. The requests have merit. Accordingly, the period of time for the submission of written comments is extended to October 6, 1983.

DATE: Comments must be received on or before October 6, 1983.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Betty L. Colburn, Duty Assessment Division (202–566–5307), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Dated: September 7, 1983.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 83–25170 Filed 9–14–83; 8:45 am]

BILLING CODE 4820-02-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operation and Relocation Procedures; Eligibility

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period of comment on the proposed amendment of rules regarding eligibility standards for receipt of benefits under Pub. L. 93–531, the Navajo and Hopi Indian Relocation Act. The reason for extending the comment period from September 19, 1983 until November 1, 1983 is to allow for public hearings to be held and to allow more time for comment.

DATE: Comments must be received by November 1, 1983.

ADDRESS: Comments may be sent to the Navajo ahd Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002.

FOR FURTHER INFORMATION CONTACT: Paul J. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002; Telephone (602) 779–2721.

SUPPLEMENTARY INFORMATION: On July 20, 1983, the Commission published a proposed rule in the **Federal Register**, Vol. 48, No. 140, p. 33005. The rule proposed amendment of rules regarding eligibility standards for receipt of benefits under Pub. L. 93-531, the Navajo and Hopi Indian Relocation Act. The proposed rule provided a sixty (60) day comment period commencing July 20, 1983 and ending September 19, 1983. The Commission has determined that the comment period should be extended until November 1, 1983, in order to allow sufficient time for the commission to hold public hearings regarding the proposed rule.

Authority: 25 U.S.C. 640d, Pub. L. 93-531, 25 U.S.C. 640d-14.

Ralph Watkins,

Chairman, Navajo-Hopi Indian Relocation Commission.

[FR Doc. 83-25081 Filed 9-14-83; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-233-82]

Reporting of State and Local Income Tax Refunds

AGENCY: Internal Revenue Service. Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the reporting of State and local income tax refunds. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 14, 1983. The amendments are proposed to be effective for payments of refunds, and credits and offsets made after December 31, 1982.

ADDRESS: Send comments and a request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-233-82), Washingtoin, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 5f of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to base on those temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

The regulations provide information reporting requirements under section 6050E of the Internal Revenue Code of 1954 for persons who, with respect to individuals, make payments of refunds of State or local income taxes, or allow credits or offsets with respect to such taxes. The regulations are to be issued under the authority contained in sections 6050E (a) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 603 68A Stat. 917; 26 U.S.C. 6050E (a), 7805).

For the text of the temporary regulations, see FR DOC. 83-25277 (T.D. 7913) published in the Rules and Regulations section of this issue of the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

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

List of Subjects in 26 CFR Parts 1.600-1—1.6109-2

Income taxes, Administration and procedure, Filing requirements.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-25278 Filed 9-14-83; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XVI

Age Discrimination in Employment; Request for Comments

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for public comments.

SUMMARY: Responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The transfer became effective and the Commission assumed enforcement of this Act on July 1, 1979.

After enactment of the Age Discrimination in Employment Act Amendments of 1978, the Department of Labor published in the **Federal Register** of September 22, 1978 (43 FR 43264), a proposed amendment to the Interpretative Bulletin, 29 CFR Part 860, with respect to employee benefit plans. After considering written comments as well as testimony at a hearing on the proposed amendment, the Department revised the original proposal and published the final rule on May 25, 1979 (44 FR 30648). On July 1, 1979, ADEA authority was transferred from the Department of Labor to the Commission.

Shortly after the transfer of authority the Commission commenced an in-depth review of all existing interpretations and opinion letters issued by the Department of Labor. As part of this review, the Commission began an exhaustive study of the Interpretative Bulletin on

Employee Benefit Plans, 29 CFR § 860.120, focusing particular attention on the provisions of that Interpretative Bulletin which permitted employers to discontinue pension contributions and crediting for employers who worked beyond the normal retirement age specified in their pension or retirement plans. In order to assist the Commission in analyzing the effects of these interpretatie provisions and in order that the Commission will be fully apprised of the consequences of any modifications to these provisions, the Commission hereby solicits public comments in response to the particular questions set forth below. When the Commission publishes the final interpretation, it will appear at 29 CFR Chapter XVI.

DATES: All comments and information responsive to the questions posed below should be received no later than November 14, 1983.

ADDRESS: Comments, in quadruplicate, should be mailed to: Treva McCall, Executive Secretariat, Equal Employment Opportunity Commission, 5th Floor, 2401 E Street, NW., Washington, D.C. 20506. A copy of all public documents will be available for inspection and copying between 9 a.m. and 4:30 p.m. in Room 2003 at the same address. The entire record, or any part thereof, may be purchased at the actual cost of duplication as computed pursuant to the fee schedule set forth at 29 CFR 1610.15(a).

FOR FURTHER INFORMATION CONTACT: John J. Pagano or Christopher G. Mackaronis, Office of Legal Counsel, Legal Services, Room 224, EEOC, 2401 E Street, NW., Washington, D.C. 20506, (202) 634-6592.

SUPPLEMENTARY INFORMATION: Just prior to the Commission's assumption of jurisdiction over the ADEA, the Commission announced in the **Federal Register** that it had unertaken a "complete review of the Department of Labor Interpretations (29 CFR Part 860) and Opinion Letters issued by the Wage and Hour Administrator of the Department of Labor." 44 FR 37974 (June 29, 1979). The Commission published proposed interpretations of the ADEA on November 30, 1979, 44 FR 68858, and final interpretations on September 29, 1981, 46 FR 47724. Neither the proposed nor final interpretations, however, specifically addressed problems arising under Section 4(f)(2) of the Act, 29 U.S.C. 623(f)(2), regarding employee benefit plans. Many of those problems were addrssed by the Department of Labor in an Interpretative Bulletin on Employee Benefit Plans which was published on May 25, 1979. *See* 44 FR 30648 (May 25, 1979). While those interpretations remain in effect, 44 FR 37974 (June 29, 1979), they have been under substantive review by the Commission since its assumption of jurisdiction over the ADEA. *See* 46 FR at 47726.

Certain sections of those interpretations are provisions which allow employers to cease pension contributions and crediting for active employees who work beyond the normal retirement age specified in their pension and retirement plans. *See* 29 CFR 860.120(f)(1)(iv)(B) (1)-(7). Briefly summarized, those rules interpret the ADEA to permit pension plans (1) to cease employer contributions at normal retirement age, (2) not to credit years of service, salary increases and benefit improvements which occur after an employee reaches the normal retirement age specified in the plan, and (3) not to adjust actuarially the benefit accrued as of normal retirement age for an employee who continues to work beyond that age. *See* 29 CFR 860.120(f)(1)(iv)(B) (1)-(7).

The transfer to the EEOC of administrative and enforcement authority under the ADEA took place on July 1, 1979, shortly after the publication of the May 25, 1979, interpretations. Recognizing the significance of these "special rules" for employees who choose to continue working beyond their normal retirement dates, the Commission commenced an exhaustive review of all factors relevant to the interpretation.

The Commission is desirous of receiving information, including statistical and technical data, relative to pension practices for employees working beyond normal retirement age. The Commission is especially interested in statistics and data that can be provided by benefit consultants, plan administrators, actuaries, and other members of the public with specific technical information concerning the operation of pension and retirement plans vis-a-vis employees working beyond normal retirement age. Relevant studies, surveys, or aggregate data would be most helpful, if available. While general information or comments may prove helpful, the Commission asks that, to the extent possible, commentors specifically provide the following information:

Questions on Post Normal Retirement Age Benefit Increases

I. General—For Employees, Employers, and Others

Please specify type of plan (defined benefit, individual account, etc. in responding to the following questions.)

(a) Data or information on pension and retirement plans; number of employees participating, if known; ages of participating employees by five-year age brackets, if possible; types of plans, i.e. defined benefit, defined contribution, target;

(b) Information on ages at which employees become entitled to full unreduced benefits including ages of earliest and latest retirement with full benefits (example: plan provides normal retirement ages of 60 with 20 years service; 65; or 10 years participation;

(c) Information on the way benefits are computed, i.e. annuity based on account balance; percentage of salary average times years of service;

(d) Information on the manner in which contributions are made i.e., percentage of payroll, cost based on projected benefits, etc;

(e) Information/figures on ages at which employees actually retire;

(f) Information or data regarding early retirement under the plan and what, if any, adjustments are made to the retirement benefit;

(g) Information/figures on employees who work beyond the age at which they were entitled to full benefits (specify that age);

(h) Information/figures on the age at which contributions cease; service credit ceases, etc.;

(i) Information on when (date) any applicable provisions for cessation of contributions or service credit beyond normal retirement age were instituted.

II. Actuaries and Employee Benefit Consultants

(a) What rules of vesting and benefit accrual are applicable to the plan(s);

(b) For plans that do not use years of service in the benefit formula, do years of service play any role in the computation of the benefits of participants hired at later ages;

(c) Does the plan provide an actuarial adjustment for participants who continue to work beyond the normal retirement age specified in the plan; has it ever done so; have there been any changes since 1978;

(d) What has been the annual unfunded liability of the plan since 1978 (as a percentage of annual liability);

(e) What percentage of annual cost is expended toward decreasing the unfunded liability of the plan;

(f) What relationship, if any, does the unfunded liability have to the age of retirees since 1978, including early retirees;

(g) What effect on unfunded liability, if any, would result either separately or collectively from (1) an actuarial

adjustment for delayed retirement and/or (2) crediting for years of service and salary increases for participants working beyond normal retirement age;

(h) What effect, if any, on the plans would continued benefit accruals or actuarial adjustments after normal retirement age have on the unfunded supplemental liability and/or overall compliance with the requirements of ERISA or the Internal Revenue Code (please specify provisions of the statute or the Code where applicable).

III. Employers and Plan Administrators

A. Individual Account Plans

(a) The types of plans maintained by employers, i.e., money purchase, profit sharing, target, ESOP, etc.;

(b) Whether more than one plan is maintained. If so, which plan is the primary plan, and which is/are secondary;

(c) Median age and salaries of retirees since 1978;

(d) Since 1978, a breakdown of the age of retirees and the percentage of the work force expected to work beyond the normal retirement age based on experience since 1978;

(e) For target benefit plans; (1) the method of computation of the benefit; (2) the percentage of participants who have met projected benefit since 1978; (3) whether the plan provides for an actuarial or similar adjustment for delayed retirement and, if so, the formula that is utilized; (4) does the plan provide for any other increases after normal retirement age;

(f) Does the plan provide for early retirement; if so, what adjustments, if any, are made for early retirement;

(g) Statistics on and/or examples of the normal retirement age in specific plans;

(h) Prior to 1978, did the plan permit service beyond the normal retirement age; what was that age; did this practice change on or after 1978;

(i) Statistics on and/or examples of employers who currently have employees working beyond the normal retirement ages specified in their defined contributions plans and estimates of the number of such employees and their percentages in the work force.

(j) Statistics on and/or descriptions of plans to which contributions are made on behalf of employees working beyond the normal retirement age in the plan.

B. Defined Benefit Plans

(a) The normal retirement age specified in the plan; whether the normal retirement age has ever been adjusted and, if so, when and to what age; have there been any changes in the normal retirement age since 1978;

(b) What is the formula used for computing benefits at normal retirement age?

(c) Does the plan provide for early retirement; if so, what are applicable plan provisions; are there any voluntary early retirement incentives offered in conjunction with the plan; what are they; and

(d) For each year since 1978, the number of employees working beyond normal retirement age; their percentage of the work force, by year; and any future estimates of such employees.

Signed at Washington, D.C. this 1st day of September 1983.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 83-24917 Filed 9-14-83; 8:45 am]

BILLING CODE 6570-06-M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA is publishing for public comment regulations to implement provisions of the Veterans' Rehabilitation and Education Amendments of 1980. Title 1 of these amendments updates and expands the vocational rehabilitation program. This revision of chapter 31 of title 38, United States Code, the first since its establishment for veterans of World War II, improve the vocational rehabilitation program, and helps to assure that service-disabled veterans will benefit from the latest concepts and methods developed in the field of rehabilitation. The revision of the law requires a corresponding revision of regulations governing the program. The regulations contained here implement provisions of the law governing approval of facilities and courses offered by facilities, case management services, entering a rehabilitation program, satisfactory conduct and cooperation during the development and implementation of a rehabilitation plan, inter- and intra-regional travel, and additional administrative considerations. These regulations will better acquaint eligible veterans, educational institutions and the public at large with the way the provisions will be implemented.

DATES: Comments must be received on or before November 14, 1983. It is proposed that these regulations be made effective on the same dates as the provisions of law on which they are based. Following this principle, provisions governing approval of facilities and courses, case management services, entering a rehabilitation program, travel, additional administrative considerations are generally effective October 1, 1980. Provisions governing satisfactory conduct and cooperation are effective April 1, 1981. The proposed effective dates of these provisions are shown in parentheses following the United States Code Cites at the end of each paragraph/section.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments will be available for public inspection only at the above address between the hours of 8 a.m. to 4:30 p.m. Monday through Friday (except holidays), until November 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits, (202) 389-3935.

SUPPLEMENTARY INFORMATION: The VA published the first portion of the proposed regulations implementing some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 in the **Federal Register** of April 29, 1982, at pages 18382 to 18386. The second portion of the proposed regulations was published in the **Federal Register** of September 15, 1982, at pages 40649 to 40659. The third portion of the proposed regulations was published in the **Federal Register** of May 10, 1983, at pages 20939 to 20949. This proposal constitutes the fourth portion of regulations to be proposed for this purpose. Specifically, these regulations contain policy for approval of facilities and courses, case management services, entrance into a rehabilitation program, satisfactory conduct and cooperation, travel, and additional administrative considerations. The fifth, and final, portion of proposed regulations will be published in the near future.

These proposed regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. There will be no new reporting or recordkeeping requirements, or other compliance costs,

to business or educational institutions caused by this proposal. The proposal will not affect other agencies. However, this proposal may induce some veterans to train under 38 U.S.C. ch. 31, who would not have done so otherwise. Furthermore, these proposed regulations will affect every veteran who is eligible to train under 38 U.S.C. ch. 31. However, these effects of the law do not place the proposed regulations in the category of major rules. Since these proposed regulations are not major rules they do not require regulatory analysis. They will not have an effect of $100 million in any year. They will not create major increases in costs or prices. They will not impose major recordkeeping burdens on anyone and they will not cause major additional costs to recipients of Federal assistance. Accordingly, the VA has not prepared an analysis of these proposed regulations.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, to the extent the proposed rules are directed to small entities, they follow the requirements of Pub. L. 96–466, or codify pre-existing agency policy and practice. Thus, no new regulatory burdens are imposed on small entities. In addition, only a limited number of service-connected disabled veterans are in training under this program at any given time. These rules will therefore have no significant economic impact on small entities.

Information collection requirements contained in these proposed regulations (§ 21.294(a)(4)(ii)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 2900–0368 (VA Form 28–1917, Monthly Statement of Wages Paid to Trainee) and 2900–0176 (VA Form 20–1905c, Montly Record of Training and wages).

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant program, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The Catalog of Federal domestic Assistance Number is 64.116.

By direction of the Administrator

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

PART 21—[AMENDED]

1. The following new centerheading and § 21.180 are added as follows:

Case Status

§ 21.180 Case status system.

(a) *General.* Each veteran's case will be assigned to a specific case status from the point of initial contact until all appropriate steps in the rehabilitation process have been completed. The case status system will:

(1) Assist VR&C staff to fulfill its case management responsibility to provide authorized assistance to enable the veteran to successfully pursue his or her program; and

(2) Assure program management and accountability. (38 U.S.C. 1507) (April 1, 1981)

(b) *Responsibility for change of case status.* The case manager is responsible for assigning a case to the appropriate case status at each point in the rehabilitation process. (38 U.S.C. 1506(e)) (April 1, 1981)

(c) *Case manager.* The VR&C (Vocational Rehabilitation and Counseling) Officer or his or her designee will assign a case manager when the veteran's case is placed in "evaluation and planning" status. The VR&C Officer or his or her designee may assign case management responsibility for development and implementation of a rehabilitation plan authorized under chapter 31 to a counseling psychologist or vocational rehabilitation specialist in the VR&C Division. The case manager assigned will, unless replaced by the VR&C Officer, continue to be responsible for case management throughout the course of the veteran's rehabilitation program. The DVB case manager should coordinate efforts to secure necessary medical and other services with DM&S (Department of Medicine and Surgery) staff assigned case management responsibility at a VA medical center as appropriate in the individual case. (38 U.S.C. 1506(e)) (April 1, 1981)

(d) *Informing the veteran.* The veteran will be informed in writing of changes in case status by the VA which affect his or her receipt of benefits and services under chapter 31. The letter to the veteran will include the reason for the change of case status, and other information required under provisions of § 21.420. (38 U.S.C. 1507) (April 1, 1981)

(e) *Normal progression for eligible veterans.* The cases of veterans who are eligible for and entitled to services under chapter 31 for whom individualized plans have been prepared will generally undergo the following changes of status:

(1) *Individualized written rehabilitation plan.* A veteran with an IWRP (Individualized Written Rehabilitation Plan) will generally move sequentially from "applicant" status through "evaluation and planning" status, "rehabilitation to the point of employability" status, "employment services" status, and "rehabilitated" status.

(2) *Individualized extended evaluation plan.* A veteran with an IEEP (Individualized Extended Evaluation Plan) will generally move from "applicant" status through "evaluation and planning" status to "extended evaluation" status. Once in "extended evaluation" status there will generally be a finding which leads to development of an IWRP (paragraph (e)(1) of this section), or IILP (Individualized Independent Living Plan) (paragraph (e)(3) of this section).

(3) *Individualized independent living plan.* A veteran with an IILP (Individualized Independent Living Plan) will generally move from "applicant" status through "evaluation and planning," "extended evaluation," "independent living," and "rehabilitated" status.

(4) *Individualized employment assistance plan.*

(i) A veteran with an IEAP (Individualized Employment Assistance Plan) which is a part of an IWRP will move through the case statuses described in Paragraph (e)(1) of this section, or in some cases through the steps in paragraph (e)(2) of this section.

(ii) A veteran for whom only employment services are provided will generally move from "applicant" through "evaluation and planning," "employment services" to "rehabilitated" status. (38 U.S.C. 1507) (April 1, 1981)

(f) *Normal progression for ineligible veterans.* A veteran found ineligible for services under chapter 31 will generally move from "applicant" to "evaluation and planning" status, to "ineligible" status. (38 U.S.C. 1507) (April 1, 1981)

(g) *Changes of status.* The case manager may change the case status when:

(1) Conditions for change specified in the status are met;

(2) The change is not specifically precluded by the status to which change is being considered; and

(3) The change is consistent with provisions of other applicable regulations. (38 U.S.C. 1506) (April 1, 1981)

2. Section 21.182 is added as follows:

§ 21.182 "Applicant" status.

(a) *Purpose.* The purposes of "applicant" status are to

(1) Process a veteran's claim for assistance under chapter 31 in a timely manner; and

(2) Identify service-disabled veterans whom the VA should contact individually to increase their awareness and understanding of how they may benefit from services furnished under chapter 31. (38 U.S.C. 1502) (April 1, 1981)

(b) *Assignment to "applicant" status.* The VA will assign a veteran's records to "applicant" status when either:

(1) The VA receives a formal or informal application from a veteran for services under chapter 31; or

(2) The VR&C (Vocational Rehabilitation and Counseling) Division:

(i) Advises a veteran in writing of the veteran's potential eligibility for chapter 31 services, or

(ii) Is informed that the veteran has been advised in writing of his or her potential eligibility for chapter 31 services by other VA elements. (38 U.S.C. 1502) (2)) (April 1, 1981)

(c) *Termination of "applicant" status.* "Applicant" status will be terminated when:

(1) An appointment for an initial evaluation has been scheduled; or

(2) The veteran's service-connected disability is reduced to a noncompensable degree; or

(3) The veteran's service-connected disability is severed; or

(4) The veteran's application is invalid because of fraud or error; or

(5) The veteran withdraws his or her claim, or otherwise indicates that no further assistance is desired. (38 U.S.C. 1506) (April 1, 1981)

Cross-Reference: See §§ 21.30 Claims, 21.31 Informal claims, and 21.34 Time limits.

3. Section 21.184 is added as follows:

§ 21.184 "Evaluation and planning" status.

(a) *Purpose.* The purpose of "evaluation and planning" status is to identify veterans for whom evaluation and planning services are needed to:

(1) Accomplish an initial evaluation as provided in § 21.50;

(2) Develop an IWRP (Individualized Written Rehabilitation Plan), IEEP (Individualized Extended Evaluation Plan), IILP (Individualized Independent Living Plan) or IEAP (Individualized Employment Assistance Plan); or

(3) Reevaluate:

(i) Findings made in prior initial evaluations, or

(ii) Current or previous individualized rehabilitation plans. (38 U.S.C. 1506, 1507) (April 1, 1981)

(b) *Assignment to "evaluation and planning" status.* A veteran's records will be assigned to "evaluation and planning" status for any of the purposes specified in paragraph (a) of this section. (38 U.S.C. 1506, 1507) (April 1, 1981)

(c) *Termination of "evaluation and planning" status.* The assignment of the veteran's records to "evaluation and planning" status may be terminated under the following conditions:

(1) *Evaluation and planning completed.* The services necessary to complete evaluation and planning have been provided. These services are:

(i) Completion of an initial evaluation;

(ii) Development of an IWRP (Individualized Written Rehabilitation Plan) or other individual rehabilitation plan in those cases in which eligibility and entitlement to services provided under chapter 31 are established; or

(iii) Completion of reevaluation of prior findings made in initial evaluation or modification of a rehabilitation plan.

(2) *Evaluation and planning not completed.* The VR&C Division shall make every reasonable effort to enable the veteran to complete the evaluation and planning phase of the rehabilitation process. A determination that every reasonable effort by the VA has been made, and that little likelihood exists that continued efforts will lead to completion of planning and evaluation, may be made under the following conditions:

(i) The veteran writes the VA and requests that his or her application be inactivated;

(ii) The veteran fails to keep scheduled appointments; or

(ii) The veteran otherwise fails to cooperate with the VA in the evaluation and planning process. If the veteran fails to cooperate the provisions of § 21.362 are applicable. (38 U.S.C. 1506, 1507) (April 1, 1981)

Cross-Reference: See §§ 21.50 through 21.58 Initial and extended evaluation, and §§21.80 through 21.98 Individualized written rehabilitation plan.

4. Section 21.186 is added as follows:

§ 21.186 "Ineligible" status.

(a) *Purpose.* The purpose of "ineligible" status is to identify the cases in which a veteran requests services under chapter 31, but the request is denied by the VA on the basis of information developed when the veteran was in "evaluation and planning" status. (38 U.S.C. 1506) (April 1, 1981)

(b) *Assignment to "ineligible" status.* A veteran's case will be assigned to "ineligible" status following a finding by the VA that the veteran is not eligible for or entitled to services under chapter 31. The finding must preclude all possible chapter 31 services. (38 U.S.C. 1506, 1507) (April 1, 1981)

(c) *Termination of "ineligible" status.* The assignment of the veteran's case to "ineligible" status should be terminated if the veteran thereafter becomes eligible to receive any chapter 31 service. Placement of the case in "ineligible" status is a bar to reconsideration of eligibility unless a material change in circumstances occurs. (38 U.S.C. 1506) (April 1, 1981)

5. Section 21.188 is added as follows:

§ 21.188 "Extended evaluation" status.

(a) *Purpose.* The purposes of "extended evaluation" status are to:

(1) Identify a veteran for whom a period of "extended evaluation" is needed; and

(2) Assure that necessary services are provided by the VA during the extended evaluation. (38 U.S.C. 1506) (April 1, 1981)

(b) *Assignment to "extended evaluation" status.* A veteran's case may be assigned or reassigned to "extended evaluation" status under provisions of § 21.86, § 21.94, § 21.96, or § 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "extended evaluation" status.* A veteran's case will be in "extended evaluation" status during periods in which:

(1) The veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran is receiving rehabilitation services prescribed in the IEEP § 21.86; or

(3) The veteran is on authorized leave of absence during an extended evaluation. (38 U.S.C. 1508) (April 1, 1981)

(d) *Termination of "extended evaluation" status.* A veteran in "extended evaluation" status will remain in that status until one of the following events occur:

(1) Following notification that necessary arrangements have been made to begin an extended evaluation, the date the extended evaluation begins, and instructions as to the next steps to be taken, the veteran:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled date of induction, except where the deferment is due to illness or other sufficient reason;

(2) The VA determines the reasonable feasibility of a vocational goal for the veteran before completion of all of the planned evaluation because the decision does not require the further evaluation;

(3) The veteran completes the extended evaluation;

(4) Either the veteran or the VA interrupts the extended evaluation;

(5) Either the veteran or the VA discontinues the extended evaluation; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or his or her continued eligibility otherwise ceases. (38 U.S.C. 1506) (April 1, 1981)

Cross-References: See §§ 21.56 Extended evaluation, 21.322 Commencing dates, 21.324 Reduction or termination.

6. Section 21.190 is added as follows:

§ 21.190 "Rehabilitation to the point of employability" status.

(a) *Purpose.* The "rehabilitation to the point of employability" status serves to:

(1) Identify veterans who receive training and rehabilitation services to enable them to attain a vocational goal; and

(2) Assure that services specified in the veteran's IWRP are provided in a timely manner by the VA. (38 U.S.C. 1501) (April 1, 1981)

(b) *Assignment.* A veteran's case may be assigned or reassigned to "rehabilitation to the point of employability" status under the provisions of §§ 21.84, 21.94, 21.96, or 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "rehabilitation to the point of employability" status.* A veteran will be assigned to "rehabilitation to the point of employability" status during periods in which:

(1) The veteran has completed the "applicant" and "initial evaluation" status (including extended evaluation status when appropriate), and is pending induction into the facility at which training and rehabilitation services will be provided;

(2) The veteran is receiving training and rehabilitation services prescribed in the IWRP; or

(3) The veteran is on authorized leave of absence. (38 U.S.C. 1504, 1508) (April 1, 1981)

(d) *Termination of "rehabilitation to the point of employability" status when goals of the IWRP for this period are achieved.* The VA will consider a veteran to have completed the period of rehabilitation to the point of employability, and will terminate this status under the following conditions:

(1) The veteran achieves the goals of, and has been provided services specified in the IWRP;

(2) The veteran completes a sufficient portion of the services prescribed in the IWRP to establish clearly that he or she is generally employable as a trained worker in the occupational objective established in the IWRP,

(3) The veteran, who has not completed all prescribed services in the IWRP, accepts employment in the occupational objective established in the IWRP with wages and other benefits commensurate with wages and benefits received by trained workers; or

(4) The veteran:

(i) Satisfactorily completes a prescribed program, the practice of which requires pursuing an examination for licensure, but

(ii) Is unable to take the licensure examination prior to the basic twelve year termination date and there is no basis for extension of that date. (38 U.S.C. 1507) (April 1, 1981)

(e) *Other conditions for termination of "rehabilitation to the point of employability" status.* In addition to termination under conditions described in paragraph (d) of this section, the classification of the veteran's records in this status may be terminated under any of the following conditions:

(1) A veteran who has been notified that necessary arrangements have been made to begin the program, the date the program begins and instructed as to the next steps to be taken:

(i) Fails to report and does not respond to initial or subsequent followup by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled beginning date of the program, except if the deferment is due to illness or other sufficient reason.

(2) Either the veteran or the VA interrupts the period of rehabilitation to the point of employability;

(3) Either the VA or the veteran discontinues the period of rehabilitation to the point of employability;

(4) The veteran reaches his or her termination date, and there is no basis for extension under § 21.44;

(5) The veteran's entitlement to training and rehabilitation services under chapter 31 is exhausted, and there is no basis for extension under § 21.78; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1507) (April 1, 1981)

(f) *Payment of employment adjustment allowance.* An employment adjustment allowance will be paid when the veteran's classification in "rehabilitation to the point of employability" status is terminated under provisions of paragraph (d) of this section. An employment adjustment allowance will not be paid if termination is for one of the reasons specified in paragraph (e) of this section. (38 U.S.C. 1508(a)) (April 1, 1981)

Cross-References: See §§ 21.120 Educational and vocational training services, 21.282 Effective date of induction into a rehabilitation program, and 21.284 Reentering into a rehabilitation program.

7. Section 21.192 is added as follows:

§ 21.192 "Independent living program" status.

(a) *Purpose.* The "independent living program" status serves to:

(1) Identify veterans who are being furnished a program of independent living services by the VA; and

(2) Assure that such veterans receive necessary services from the VA in a timely manner. (38 U.S.C. 1507) (April 1, 1981)

(b) *Assignment to "independent living program" status.* A veteran may be assigned or reassigned to "independent living program" status under the provisions of §§ 21.88, 21.94, 21.96, or 21.98. (38 U.S.C. 1507) (April 1, 1981)

(c) *Continuation in "independent living program" status.* A veteran will be in "independent living program" status during periods in which:

(1) The provisions of § 21.282 for induction into a program are met, but the veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran receives rehabilitation services prescribed in an IILP; or

(3) The veteran is on authorized leave of absence status. (38 U.S.C. 1509, 1520) (October 1, 1980)

(d) *Termination of "independent living program" status.* When a veteran's case has been assigned to "independent living program" status the case will be terminated from that status if one of the following occurs:

(1) A veteran, who has been notified that necessary arrangements have been made to begin a program, the date the program begins and instructed as to the next steps to be taken:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers entry for more than 30 days beyond the scheduled beginning date, unless the deferment is due to illness or other sufficient reason.

(2) The veteran completes the IILP;

(3) Either the veteran or the VA interrupts the program;

(4) Either the veteran or the VA discontinues the program; or

(5) Service-connection for the veteran's service-connected disability is severed by the VA. (38 U.S.C. 1509, 1510) (October 1, 1980).

Cross-References: See §§ 21.160 Independent living services. 21.282 Effective date of induction into a rehabilitation program. 21.322 Commencing date. 21.324 Reduction of termination date.

8. Section 21.194 is added as follows:

§ 21.194 "Employment services" status.

(a) *Purpose.* The status "employment services" serves to:

(1) Identify veterans who are being furnished employment services; and

(2) Assure that these veterans receive necessary services in a timely manner. (38 U.S.C. 1517) (April 1, 1981)

(b) *Assignment to "employment services" status.* A veteran's case may be assigned or reassigned to "employment services" status under the provisions of §§ 21.84, 21.88, and 21.94. (38 U.S.C. 1517) (April 1, 1981)

(c) *Continuation in "employment services" status.* A case will remain in "employment services" status for the period specified in the IEAP, subject to the limitations specified in paragraph (d) of this section. (38 U.S.C. 1517) (April 1, 1981)

(d) *Termination of "employment services" status.* The veteran will continue in "employment services" status until the earliest of the following events occurs:

(1) He or she is:

(i) Employed in the occupational objective for which training was provided or in a closely related objective for sixty days, and

(ii) Adjusted to the duties and responsibilities of the job;

(2) He or she qualifies for placement in "rehabilitation" status under the provisions of § 21.196(b)(2);

(3) Either the veteran or the VA interrupts the employment services program;

(4) Either the veteran or the VA discontinues the employment services program;

(5) He or she reaches the end of the period for which employment services have been authorized and there is no basis for extension; or

(6) Service-connection for the veteran's service-connected disability is severed or he or she otherwise ceases to be eligible. (38 U.S.C. 1517) (April 1, 1981)

Cross-References: See §§ 21.47 Eligibility for employment assistance, 21.250 Employment assistance, and 21.326 Awards for employment services.

9. Sections 21.196 through 21.198 are added as follows:

§ 21.196 "Rehabilitated" status.

(a) *Purpose.* The purpose of "rehabilitated" status is to identify those cases in which the goals of a rehabilitation program or a program of employment services have been substantially achieved.

(b) *Assignment to "rehabilitated" status.* A veteran's case shall be assigned to "rehabilitated" status under the following conditions:

(1) *Achieving and maintaining suitable employment.* A veteran's case shall be assigned to "rehabilitated" status from "employment services" status as provided in § 21.194(d)(1) pertaining to the achievement and maintenance of suitable employment, following attainment of the goals of a plan. This includes:

(i) An IEAP (Individualized Employment Assistance Plan) which is part of an IWRP (Individualized Written Rehabilitation Plan); or

(ii) An IEAP which constitutes the program of services to be provided under chapter 31.

(2) *Rehabilitation to the point of employability not completed.* A veteran who has not completed the planned period of rehabilitation to the point of employability shall be assigned to "rehabilitated" status if he or she:

(i) Is employed and adjusted in employment for 60 days in the occupational objective established in the IWRP, with wages and benefits commensurate with wages and other benefits received by other workers in the same occupation; or

(ii) Is employed and adjusted in employment for 60 days in a job which provides wages and benefits commensurate with the wages and benefits of workers in the occupation for which the veteran was training, is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities, and otherwise consistent with the veteran's abilities and interests.

(3) *IEAP not completed.* A veteran in an IEAP which constitutes the whole of the veteran's program of services will be assigned to "rehabilitated" status from "employment services" status, even if the IEAP is not completed when:

(i) He or she is employed and adjusted in employment for 60 days in an occupation which provides wages and benefits commensurate with the wages and benefits received by workers in the occupational objective of the IEAP, and

(ii) The occupation in which the veteran is employed is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities.

(4) *Independent living services plan.* A veteran in an IILP shall be considered rehabilitated when:

(i) The goal(s) of the IILP is (are) achieved, and

(ii) The veteran has maintained the increased level of independence for sixty days; or

(iii) The veteran has not achieved the goals of the IILP, but the VA determines that the veteran has received maximum benefits from the services provided, and has achieved a substantial increase in the level of independence. (38 U.S.C. 1507, 1517) (April 1, 1981)

(c) *Termination of "rehabilitated" status.* A veteran's case will not be removed from "rehabilitated" status once that status has been assigned, unless the determination of rehabilitation is set aside for a reason specified in § 21.284. (38 U.S.C. 1500) (April 1, 1981)

Cross-Reference: See § 21.284 Reentrance into a rehabilitation program.

§ 21.197 "Interrupted" status.

(a) *Purpose.* The purpose of "interrupted" status is to recognize that a variety of situations may arise in the course of a rehabilitation program in which a temporary suspension of the program is warranted. In each case, the VA first must determine that the veteran will be able to return to a rehabilitation program or a program of employment services following the resolution of the situation causing the interruption. This determination will be documented in the veteran's record. (38 U.S.C. 1517) (October 1, 1981)

(b) *Assignment to "interrupted" status.* A veteran's case will be assigned to "interrupted" status when:

(1) The VA determines that a suspension of services being provided is necessary; and

(2) Either:

(i) A definite date for resumption of the program is established; or

(ii) The evidence indicates the veteran will be able to resume the program at some future date which can be

approximately established. (38 U.S.C. 1510) (April 1, 1981)

(c) *Reasons for assignment to "interrupted" status.* A veteran's case may be interrupted and assigned to "interrupted" status for reasons including but not limited to the following:

(1) *Veteran does not initiate or continue rehabilitation process.* If a veteran does not begin or continue the rehabilitation process, the veteran's case will be interrupted and assigned to "interrupted" status, including:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status or

(vi) A case in "employment services" status.

(2) *Unsatisfactory conduct and cooperation.* If a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be interrupted as determined under provisions of §§ 21.362 and 21.364.

(3) *Services not available.* The veteran cannot continue the program because the necessary training and rehabilitation services are unavailable.

(4) *Prior to assignment to "discontinued" status.* A veteran's case shall be assigned to "interrupted" status prior to discontinuance and assignment to "discontinued" status in all cases except the veteran's death. The purpose of assignment to "interrupted" status is to assure that all appropriate actions have been taken to help the veteran continue in his or her program before discontinuing benefits and services.

(5) *Absences.* The veteran is not entitled to be placed on authorized absence under §§ 21.342 through 21.350 while in interrupted status. (38 U.S.C. 1511) (April 1, 1981)

(d) *Reentrance from "interrupted" status.* (1) A veteran in "interrupted" status may be assigned to his or her prior status or other appropriate status, if he or she reports for reentrance into the prescribed program at the time and place scheduled for the resumption of the rehabilitation program.

(2) If a veteran in "interrupted" status fails to report for reentrance into the program at the appointed time and place, the veteran's case will remain in "interrupted" status. The case manager will then determine whether there is a satisfactory reason for the veteran's failure to enter the new or reenter the prior program. If the evidence of record does not establish a satisfactory reason, the veteran's case will be discontinued and assigned to "discontinued" status. (38 U.S.C. 1508) (April 1, 1981)

(e) *Case management responsibility during a period of interruption.* The case manager shall maintain contact with the veteran during "interruption" and shall arrange for appropriate medical or other services the veteran needs to be able to reenter a rehabilitation program or a program of employment services. (38 U.S.C. 1507) (October 1, 1980)

Cross-Reference: See § 21.324 Reduction or termination date.

§ 21.198 "Discontinued" status.

(a) *Purpose.* The purpose of "discontinued" status is to identify situations in which termination of all services and benefits received under chapter 31 is necessary. (38 U.S.C. 1510, 1511) (October 1, 1980)

(b) *Placement in "discontinued" status.* The VA will discontinue the veteran's case and assign the case to "discontinued" status. The VA will discontinue the veteran's case and assign the case to "discontinued" status following assignment to "interrupted" status as provided in § 21.197 for reasons including but not limited to the following conditions:

(1) *Veteran declines to initate or continue rehabilitation process.* If a veteran does not initiate or continue the rehabilitation process and does not furnish an acceptable reason for his or her failure to do so, the veteran's case will be discontinued and assigned to "discontinued" status. This includes:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extented evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status;

(vi) A case in "employment services" status; or

(vii) A case in "interrupted" status; (38 U.S.C. 1511) (October 1, 1980)

(2) *Unsatisfactory conduct and cooperation.* When a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be discontinued and assigned to "discontinued" status as determined under provisions of §§ 21.362 and 21.364.

(3) *Eligibility and entitlement.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran reaches the basic 12 year termination date, and there is no basis for extension; or

(ii) The veteran has used 48 months of entitlement under one or more VA programs, and there is no basis for extension of entitlement.

(4) *Medical and related problems.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran will be unable to participate in a rehabilitation program because of a serious physical or emotional problem for an extended period; and

(ii) VA medical staff are unable to estimate an approximate date by which the veteran will be able to begin or return to the program.

(5) *Withdrawal.* Veteran voluntarily withdraws from the program.

(6) *Failure to progress.* The veteran's case will be discontinued and assigned to "discontinued" status if his or her failure to progress in a program is due to:

(i) Continuing lack of application by the veteran unrelated to any personal or other problems; or

(ii) Inability of the veteran to benefit from rehabilitation services despite the best efforts of the VA and the veteran. (38 U.S.C. 1510, 1511) (October 1, 1980)

(c) *Termination of "discontinued" status.* Except as noted in paragraph (c)(3) of this section assignment of the veteran's case to the same status from which the veteran was discontinued or to a different one requires that the VA first find:

(1) The reason for the discontinuance has been removed; and

(2) The VA has redetermined his or her eligibility and entitlement under chapter 31.

(3) The criteria described in paragraphs (c) (1) and (2) of this section are not applicable if:

(i) The veteran was placed in "discontinued" status under § 21.362 or 21.364. Reassignment to the prior or different status is also determined under provisions of those regulations; or

(ii) The veteran's discontinuance was under provisions of § 21.198(b)(4). The case may be placed in the prior status or a different status withour a redetermination of entitlement and the period of eligibility may be extended under provisions of § 21.42(b). (38 U.S.C. 1511) (October 1, 1980)

(d) *Followup of cases placed in "discontinued" status.* The VA shall establish appropriate procedures to follow-up on cases which have been placed in "discontinued" status. The purpose of such followup is to determine if:

(1) The reasons for discontinuance may have been removed, and reconsideration of eligibility and entitlement is possible; or

(2) The veteran is employed, and criteria for assignment to "rehabilitated" status are met. (38 U.S.C. 1507) (April 1, 1981)

Cross-Reference: See § 21.324 Reduction or termination dates.

§§ 21.280, 21.281, 21.282, 21.286 and 21.287 [Removed]

10. The center heading "Termination of Training" and §§ 21.280, 21.281, 21.283, 21.286 and 21.287 are removed.

11. A new center heading "Entering a Rehabilitation Program," and §§ 21.282 and 21.284 are added to read as follows:

Entering a Rehabilitation Program

§ 21.282 Effective date of induction into a rehabilitation program.

(a) *General.* Except as provided in paragraph (b) the effective date of induction of a veteran into a rehabilitation program will be one of the dates provided in §§ 21.320 through 21.334. (38 U.S.C. 1508) (October 1, 1980) (April 1, 1981)

(b) *Retroactive induction.* (1) A veteran may be inducted into a vocational rehabilitation program retroactively when all of the following conditions are met:

(i) The period for which retroactive induction is requested is within the veteran's basic period of eligibility or extended eligibility as provided in §§ 21.41 through 21.44;

(ii) The veteran was entitled to disability compensation during the period for which retroactive induction is requested, and met the criteria of entitlement to vocational rehabilitation for that period; and

(iii) The training the veteran pursued during the period is applicable to the occupational objective that is confirmed in initial evaluation to be compatible with his or her disability, consonant with his or her abilities, interests, and aptitudes, and otherwise suitable for accomplishing vocational rehabilitation. (38 U.S.C. 3013) (April 1, 1981)

(2) A veteran shall not be inducted into a vocational rehabilitation program retroactivity if any of the following conditions exist even though all conditions of paragraph (b) of this section are met:

(i) Timely induction was prevented by the veteran's lack of cooperation in completing an initial evaluation;

(ii) The veteran has previously received benefits under another VA program of education or training for any period for which retroactive benefits are being requested under chapter 31;

(iii) A period of extended evaluation is authorized to determine the reasonable feasibility of a vocational goal; or

(iv) The veteran's claim is not received within the time limits described in § 21.31. (38 U.S.C. 1501(9)) (April 1, 1981)

(c) *Effective date of retroactive induction.* The effective date of a veteran's retroactive induction into vocational rehabilitation shall be the earliest of the following dates:

(1) The date of the veteran's chapter 31 application; or

(2) One year before the day the veteran began training for the occupational objective established in the veteran's plan; or

(3) The effective date of the establishment of the veteran's compensable service-connected disability. (38 U.S.C. 3013) (October 1, 1980)

§ 21.284 Reentrance into a rehabilitation program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran who has been found "rehabilitated" under provisions of § 21.196 may be provided an additional period of training or services only if the following conditions are met:

(1) The veteran has a compensable service-connected disability and either;

(2) Current facts, including any relevant medical findings, establish that the veteran's connected disability has worsened to the extent that the effects of the service-connected disability considered in relation to other facts precludes him or her performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(3) The occupation for which the veteran previously was found rehabilitated under chapter 31 is found to be unsuitable on the basis of the veteran's specific employment handicap and capabilities. (38 U.S.C. 1501(a)) (April 1, 1981)

(b) *Reentrance into a program of independent living services following a determination of rehabilitation.* A finding of rehabilitation following a program of independent living services may only be set aside and an additional period of independent living services provided if the following conditions are met:

(1) Either:

(i) The veteran's conditions has worsened and as a result the veteran has sustained a substantial loss of independence; or

(ii) Other changes in the veteran's circumstances have caused a substantial loss of independence; and

(2) the provisions of § 21.162 pertaining to participation in a program of independent living services are met. (38 U.S.C. 1509) (October 1, 1980)

(c) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided if any of the following conditions are met:

(1) The conditions for setting aside a finding of rehabilitation under paragraph (a) of this section;

(2) The rehabilitation services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued rehabilitation;

(3) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(4) The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation. (38 U.S.C. 1517) (April 1, 1981)

§ 21.291 [Removed]

12. The centerheading "Assisting Veterans in Obtaining Employment" and § 21.291 are removed.

13. A new heading is added, and § 21.290 is revised as follows:

Course Approval and Facility Selection

§ 21.290 Training and rehabilitation resources.

(a) *General.* For the purpose of providing training and rehabilitation services under chapter 31 the VA may:

(1) Use facilities, staff and other resources of the VA;

(2) Employ and additional personnel and experts needed;

(3) Use the facilities and services of any:

(i) Federal;

(ii) State;

(iii) Other public agency; or

(iv) Agency maintained by joint Federal and state contributions.

(4) Use the facilities and services of any:

(i) Public;

(ii) Private institution or establishment; or

(iii) Private individual. (38 U.S.C. 1515)(April 1, 1981)

(b) *Agreement required.* Use of facilities and services provided under paragraph (a) of this section shall be procured through contract, agreement, or other cooperative arrangement. The specific requirements for use of contracts or other arrangements are described in 41 CFR 8–95.2. (38 U.S.C. 1515)(April 1, 1981)

14. Section 21.292 is added as follows:

§ 21.292 Course approvals.

(a) *Courses must be approved.* Only those courses approved by the Veterans Administration shall be utilized to provide training and rehabilitation services under Chapter 31. (38 U.S.C. 1506) (April 1, 1981)

(b) *General.* VA staff in consultation with the veteran will select courses and services needed to carry out the rehabilitation plan only from those which the VA determines that are offered by a training or rehabilitation facility which:

(1) Meets the requirements of § 21.120 through 21.162;

(2) Meets the criteria of §§ 21.290 through 21.299; and

(3) Is is compliance with title VI of the Civil Rights Act of 1964, section 503(a) Veterans Readjustment Act of 1972, and sections 501–504 of the Rehabilitation Act of 1973. (38 U.S.C. 1515) (April 1, 1981)

(c) *Obtaining information necessary for approval.* In determining whether services and courses may be approved for a veteran's training and rehabilitation under chapter 31, the Veterans Administration may use information relevant to the approval or certification of such services and courses for similar purposes developed by:

(1) The State approving agencies;

(2) The Department of Labor;

(3) State vocational rehabilitation agencies;

(4) Nationally recognized accrediting associations;

(5) The Committee on Accreditation of Rehabilitation Facilities; and

(6) Other organizations and agencies. (38 U.S.C. 1515) (April 1, 1981)

(d) *Course not approved.* If a course or prorgram is not approved by one of the agencies identified in paragraph (c) of this section, VR&C staff shall develop necessary information to determine whether criteria given in paragraphs (a) and (b) of this section are met. (38 U.S.C. 1515) (April 1, 1981)

(e) *Course disapproved.* Only the Director, VR&C Service may approve courses which have been disapproved by one of the agencies identified in paragraph (c) of this section. (38 U.S.C. 1515) (April 1, 1981)

15. Section 21.294 is added as follows:

§ 21.294 Selecting the training or rehabilitation facility

(a) *Criteria the facility must meet.* In addition to approval of the courses offered, all facilities which provide training and rehabilitation services under chapter 31 must meet the criteria contained in §§ 21.290 through 21.299 applicable to the type of facility. Each facility must:

(1) Have space, equipment, instructional material and instructor personnel adequate in kind, quality, and amount to provide the desired service for the veteran;

(2) Fully accept the obligation to give the training or rehabilitation services in all parts of the plan which call for the facility's participation;

(3) Provide courses or services which:

(i) Meet the customary requirements in the locality for employment in the occupation in which training is given when employment is the objective of the program; and

(ii) Meet the requirements for licensure or permit to practice the occupation, if such is required;

(4) Agree:

(i) To cooperate with the VA, and

(ii) To execute forms covering the veteran's attendance, performance, and progress in training. (38 U.S.C. 1515) (April 1, 1981)

(b) *Selecting a facility for provision of independent living services.* (1) Facilities offering independent living services will be utilized to:

(i) Evaluate independent living potential;

(ii) Provide a program of independent living services to veterans for whom an Individual Independent Living Plan has been developed; or

(iii) Provide independent living services to veterans as part of an Individual Written Rehabilitation Plan, or an Extended Evaluation Plan.

(2) The VA will only utilize public and nonprofit agencies to provide independent living services. These facilities must be:

(i) VA medical centers which provide independent living services;

(ii) Facilities which meet standards established by the state rehabilitation agency for rehabilitation facilities or for providers of independent living services; or

(iii) Facilities which are neither approved nor disapproved by the state rehabilitation agency, but are determined by the VA to be able to provide necessary services in an individual veteran's case. (38 U.S.C. 1515) (April 1, 1981)

(3) The VA policy normally shall be to utilize VA facilities to provide rehabilitation services for veterans in a rehabilitation program under chapter 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily available at a VA medical center. (38 U.S.C. 1515) (April 1, 1981)

(d) *Selection of individual to provide training or rehabilitation services.* Persons selected to provide individual instruction or other services as part of a program leading to the long-range goal of a veteran's plan must meet one of the following critieria:

(1) State requirements for teaching in the field or occupation for which training is being provided; or

(2) Expertise demonstrated through employment in the field in which the veteran is to be trained; or

(3) Requirements established by professional associations to provide the services needed by the veteran. (38 U.S.C. 1515) (April 1, 1981)

(e) *Relatives.* Relatives of the veteran may not be selected to provide services, even if otherwise qualified, unless such use is specifically permitted by the VA regulation governing provision of the service. Selection of a training or rehabilitation facility owned by the veteran or a relative, or in which the veteran or a relative of the veteran has an interest is precluded, except for selection of a farm as provided in § 21.298. The term relative has the same meaning as in § 21.376. (38 U.S.C. 1515) (April 1, 1981)

(f) *Contracts or agreements required.* The Veterans Administration will negotiate formal contracts for reimbursement to providers of services as required by 41 CFR 8–95.2 (Vocational Rehabilitation and Education Program). However, a letter contract will be effected immediately to permit the induction of the veteran into a program if:

(1) The veteran is immediately entered into a school with which a contract is required;

(2) The veteran's rehabilitation plan will be jeopardized by withholding services until a contract can be completed; and

(3) There are no known reasons to indicate that a contract may not be completed in a reasonable time. (38 U.S.C. 1515) (April 1, 1981)

(g) *Training outside the United States.* The VA may only use those facilities

and courses outside the United States to provide training under chapter 31 which meet requirements for approval under §§ 21.4150(c) and 21.4260. The conditions under which training outside the United States may be approved are contained in § 21.130. (38 U.S.C. 1514) (April 1, 1981)

(h) *Flight training.* Flight training may only be provided in educational institutions which offer a standard college degree. The specific conditions under which flight training may be approved are contained in § 21.134. (38 U.S.C. 1515) (April 1, 1981)

(i) *Additional consideration.* The case manager will consider the veteran's preference for a particular training or rehabilitation facility but the VA has final responsibility for selection of the facility. (38 U.S.C. 1515) (April 1, 1981)

16. Section 21.296 is added as follows:

§ 21.296 Selecting a training establishment for on-job training.

(a) *Additional criteria for selecting a training establishment.* In addition to meeting all of the requirements of § 21.192 the training establishment must:

(1) Sign an agreement to provide on-job training to disabled veterans;

(2) Provide continuous training for each veteran without interruption except for normal holidays and vacation periods;

(3) Provide daytime training for the veteran except when the veteran cannot obtain necessary on-job or related training during the working hours of the day;

(4) Modify the program when necessary to compensate for the limitations resulting from the veteran's disability or needs;

(5) Organize training into definite steps or units which will result in progressive training;

(6) Encourage rapid progress of each veteran rather than limit the progress of the individual to the progress of the group;

(7) Not, during the period of training, use the veteran on production activities beyond the point of efficient training;

(8) Agree to pay the veteran during training (except as provided in paragraphs (b) and (c) of this section) a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor,

(ii) Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended, and

(iii) Not less than that customarily paid to nonveteran-trainees in the same or similar training situation;

(9) Agree to provide the veteran with employment at the end of the training program, provided the veteran's conduct and progress have been satisfactory; and

(10) Agree to furnish the VA a statement in writing showing:

(i) Wages;

(ii) Compensation; and

(iii) Other income paid directly or indirectly to each veteran in training under chapter 31 during the month. (38 U.S.C. 1508(c), 1515) (April 1, 1981)

(b) *On-job training at subminimum wage rates.* A subminimum hourly wage rate for handicapped workers may be considered where necessary in order to prevent curtailment of opportunities for employment. Payment at the subminimum rate must be approved by the Wage and Hour Division of the Department of Labor. (38 U.S.C. 1515) (April 1, 1981)

17. Section 21.298 and 21.299 are added as follows:

§ 21.298 Selecting a farm.

(a) *Control of the farm—farm operator.* A farm selected for farm cooperative training must be under the control of the veteran by ownership, lease or other written tenure arrangement. If the veteran does not own the farm the lease or other written agreement shall:

(1) Afford the veteran control of the farm at least until the end of his or her course;

(2) Allow the veteran's control to be such that he or she is able:

(i) To carry out the provisions of the training program; and

(ii) To operate the farm in accordance with the farm and home plan developed by the case manager and the veteran in collaboration with the instructor, and when appropriate, the landowner or lessor;

(3) Will permit instruction in the planning, management, and operation of farming enterprise in the veteran's farm and home plan;

(4) At least by the end of the necessary minimum period of training, will assure the veteran a reasonably satisfactory living under normal economic conditions;

(5) Has the necessary buildings and equipment to enable the veteran to satisfactorily begin pursuit of the course of farm cooperative training;

(6) Has resources which give reasonable promise that any additional items required for the pursuit of the course, including livestock, will be available as they become necessary;

(7) Provide for capital improvements to be made which are necessary for carrying out the farm and home plan with the veteran furnishing no greater portion of the costs than the benefits accruing to the veteran warrant; and

(8) Provide for the landowner or lessor to share the costs of improved practices put into effect in proportion to the returns he or she will receive from such practices. (38 U.S.C. 1515) (April 1, 1981)

(b) *Farms on which more than one person trains—farm operator.* If a veteran in training is a partner of another person or if more than one person is involved in operating the farm, the farm shall be of such size and character that the farm:

(1) Together with the instruction part of the course will occupy the full time of the veteran; and

(2) Meets all requirements of paragraph (a) of this section. (38 U.S.C. 1515) (April 1, 1981)

(c) *Selecting a farm—farm manager.* The farm on which a veteran trains to become a farm manager shall be of such size and character that, together with the group instruction part of the course:

(1) Will occupy the full time of the veteran;

(2) Will permit instruction in all aspects of the management and operation of a farm of the type for which the veteran is being trained; and

(3) Meets the requirements of paragraph (a) of this section. (38 U.S.C. 1515) (April 1, 1981)

(d) *Employer agreement.* The VA may approve a farm on which a veteran is to train to become a farm manager only if the employer-trainer agrees:

(1) To instruct the veteran in various aspects of farm management in accordance with the individual's plan;

(2) To pay the veteran for each successive period of training a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor; and

(ii) Not less than that customarily paid to a nonveteran trainee in the same or similar training situation in that community; and

(3) To employ the veteran as a manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or assures that the veteran will be employed as manager of a specified comparable farm. (38 U.S.C. 1515) (April 1, 1981)

§ 21.299 Use of facilities of the United States agencies for on-job training at no or nominal pay.

(a) *Use of facilities of United States agencies permitted.* Notwithstanding any other provision of regulations governing chapter 31, the facilities of any agency of the United States may be used to provide training or work experience at no or nominal pay as all or part of the veteran's program of vocational rehabilitation under § 21.122,

provided the counseling psychologist and case manager determine the training or work experience is necessary to accomplish vocational rehabilitation. (38 U.S.C. 1515) (April 1, 1981)

(b) *Employment status of veterans in facilities of United States agencies.* While pursuing training or work experience in a facility or agency of the United States, a veteran:

(1) Shall be deemed to be an employee of the United States for the purposes of benefits under chapter 81, Title 5, United States Code; but

(2) Shall not be deemed an employee of the United States for the purpose of laws administered by the Office of Personnel Management. (38 U.S.C. 1515) (April 1, 1981)

18. The following new centerheading and § 21.362 are added to read as follows:

Conduct and Cooperation

§ 21.362 Satisfactory conduct and cooperation.

(a) *General.* The successful development and implementation of a program of rehabilitation services require the full and effective participation of the veteran in the rehabilitation process.

(1) The veteran is responsible for satisfactory conduct and cooperation in developing and implementing a program of rehabilitation services under chapter 31;

(2) The staff is responsible for insuring satisfactory conduct and cooperation on the veteran's part; and

(3) The VA staff shall take required action when the veteran's conduct and cooperation are not satisfactory. (See § 21.364) (38 U.S.C. 1511) (April 1, 1981)

(b) *VA responsibility.* The VA shall make a reasonable effort to inform the veteran and assure his or her understanding of:

(1) The services and assistance which may be provided under chapter 31 to help the veteran maintain satisfactory cooperation and conduct and to cope with problems directly related to the rehabilitation process, especially counseling services;

(2) Other services which VR&C staff can assist the veteran in securing through non-VA programs; and

(3) The specific responsibilities of the veteran in the process of developing and implementing a program of rehabilitation services, especially the specific responsibility for satisfactory conduct and cooperation. (38 U.S.C. 1511) (April 1, 1981)

(c) *Veteran's responsibility.* A veteran requesting or being provided services under chapter 31 must:

(1) Cooperate with VA staff in carrying out the intitial evaluation and developing a rehabilitation plan;

(2) Arrange a schedule which allows him or her to devote the time needed to attain the goals of the rehabilitation plan;

(3) Seek the assistance of VA staff as necessary to resolve problems which affect attainment of the goals of the rehabilitation plan;

(4) Conform to procedures established by the VA governing pursuit of a rehabilitation plan including:

(i) Enrollment and reenrollment in a course;

(ii) Changing the rate at which a course is pursued;

(iii) Requesting a leave of absence;

(iv) Requesting medical care and treatment;

(v) Securing supplies; and

(vi) Other procedures.

(5) Conform to the rules and regulations of the training or rehabilitation facility at which services are being provided. (38 U.S.C. 1511) (April 1, 1981)

(d) *Responsibility for determining satisfactory conduct and cooperation.* VR&C staff with case management responsibility in the veteran's case will:

(1) Monitor the veteran's conduct and cooperation as necessary to assure consistency with provisions of paragraph (c) of this section.

(2) Provide assistance which may be authorized under chapter 31, or for which arrangements may be made under other programs to enable the veteran to maintain satisfactory conduct and cooperation. (38 U.S.C. 1511) (April 1, 1981)

19. Section 21.364 is added as follows:

§ 21.364 Unsatisfactory conduct and cooperation.

(a) *General.* If the VA determines that a veteran has failed to maintain satisfactory conduct or cooperation, the VA may, after determining that all reasonable counseling efforts have been made and are found not reasonably likely to be effective, discontinue services and assistance to the veteran unless the case manager determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the VA may reinstitute such services and assistance only if the counseling psychologist determines that:

(1) The unsatisfactory conduct or cooperation of such veteran will not be likely to recur; and

(2) The rehabilitation program which the veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1511) (April 1, 1981)

(b) *Unsatisfactory conduct or cooperation exists.* When the case manager determines that the veteran's conduct and/or cooperation are not in conformity with provisions of § 21.362(c) the case, manager will:

(1) Discuss the situation with the veteran;

(2) Arrange for services, particularly counseling services, which may assist in resolving the problems which led to the veteran's unsatisfactory conduct or cooperation;

(3) Interrupt the program to allow for more intense efforts if the unsatisfactory conduct and cooperation persist. If a reasonable effort to remedy the situation is unsuccessful during the period in which the program is interrupted, the veteran's case will be discontinued and assigned to "discontinued" status unless mitigating circumstances are found. When mitigating circumstances exist the case may be continued in "interrupted". status until VA staff determine the veteran may be reentered into the same or a different program because the veteran's conduct and cooperation will be satisfactory, or if a plan has been developered to enable the veteran to reenter and try to maintain satisfactory conduct and cooperation. Mitigating circumstances include:

(i) The effects of the veteran's service and nonservice-connected condition;

(ii) Family or financial problems which have led the veteran to unsatisfactory conduct or cooperation; or

(iii) Other circumstances beyond the veteran's control. (38 U.S.C. 1511) (April 1, 1981)

20. The following new centerheading and § 21.370 are added as follows:

Inter and Intra Regional Travel of Veterans

§ 21.370 Intraregional travel at government expense.

(a) *Introduction.* The VA may authorize transportation expenses for intraregional travel to a veteran in a rehabilitation program or a program of employment services for the purposes presented in paragraph (b), of this section. When approved for purposes stated in paragraph (b), authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents, or for moving personal effects. (38 U.S.C. 111, 1504(a)(13)) (April 1, 1981)

(b) *Necessary condition for intraregional travel at government*

expense. The VA may authorize a veteran to travel at government expense within the regional territory of the VA field station of jurisdiction when:

(1) The VA determines that the travel is necessary in the discharge of the government's obligation to the veteran; and

(2) The veteran is instructed to travel for any of the following reasons:

(i) To report to the chosen school or training facility for the purpose of starting training;

(ii) To report to a prospective employer-trainer for an interview prior to induction into training when there is definite assurance in advance of approving the travel that, upon interview, the employer will start the veteran in training, if the employer finds the veteran acceptable, or

(iii) To report to the chosen school for a personal interview prior to induction into training when:

(A) The school requires the interview as a condition of admission,

(B) There is assurance before the travel is approved that the veteran's records (school, counseling, etc.) show he or she meets all basic requirements for entrance under § 21.282; and

(C) The veteran submits to the school a transcript of his or her high school credits and a transcript from any school he or she attended following high school.

(iv) To report to a rehabilitation facility or sheltered workshop;

(iv) To return to his or her home from the training or rehabilitation facility when:

(A) Services are not available for a period (including summer vacation periods), of 30 days or more, and

(B) Travel from his or her home to the training or rehabilitation facility was at government expense;

(vi) To return to the training or rehabilitation facility from his or her home when:

(A) The purpose of the travel is to continue the rehabilitation program, and

(B) Travel from the training or rehabilitation facility to the veteran's home was at government expense;

(vii) To return to the point from which he or she was transported at government expense, upon being placed in "discontinued" or "interrupted" status for any reason except abandonment of training by the veteran without good reason;

(viii) To report to a place of prearranged satisfactory employment upon completion of vocational rehabilitation for the purpose of beginning work;

(ix) To return to his or her home form the place of training following rehabilitation to the point of employability when suitable employment is not available;

(x) To return from the place of training to the veteran's prior location when the VA could have approved travel to the place of training at government expense, but did not issue the necessary travel authorization; and

(xi) To report to a place to take a scheduled examination required to practice the trade or profession for which the veteran has been trained. This travel shall be limited to points within the state in which the veteran has pursued his or her training or, if the veteran returned to the state from which he or she was sent to pursue training, he or she may be sent at government expense to a place within that state to take the examination. If there is more than one place within the state at which the veteran may take the examination, travel shall be limited to the nearest place. (38 U.S.C. 11) (April 1, 1981)

(c) *Approval of intraregional transfer.* Intraregional travel must be approved by the case manager. (38 U.S.C 1504(a)(13)) (April 1, 1981)

21. Section 21.372 is added as follows:

§ 21.372 Interregional transfer at government expense.

(a) *Introduction.* A veteran may need to transfer from the jurisdiction of one VA field station to another in order to accomplish rehabilitation. The section states the conditions which will permit the transfer to be made at government expens. Authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))(April 1, 1981)

(b) *Conditions which permit interregional transfers at government expense.* A veteran may be provided travel at government expense when it has been determined that such travel is necessary to accomplish rehabilitation. The VA will authorize an interregional transfer at government expense only to allow the veteran:

(1) To enter training in the nearest satisfactory facility if:

(i) The nearest satisfactory facility is within the jurisdiction of another VA field station; or

(ii) There are no satisfactory facilities within the jurisdiction of the field station in which the veteran resides.

(2) To enter training in the state in which the veteran has long-standing family and social ties, and in which he or she plans to live following rehabilitation;

(3) To report to an employer-trainer when all necessary steps have been taken to establish an on-job training program;

(4) To report to a rehabilitation facility or workshop;

(5) To return to his or her home from the place of training when:

(i) Training is not available for a period (including summer vacation periods), of 30 days or more, and

(ii) Travel from his or her home to the place of training or rehabilitation services was at government expense;

(6) To return to the place of training or rehabilitation services from his or her home when:

(i) The purpose of the travel is to continue training or rehabilitation services; and

(ii) Travel from the place of training or rehabilitation services to the veteran's home was at government expense;

(7) To return to the point from which he or she was transferred at government expense, upon being assigned to "discontinued" or "interrupted" status, for any reason except abandonment of training by the veteran without good reason;

(8) To report to a place of prearranged satisfactory employment or for a prearranged employment interview following completion of his or her program of vacational rehabilitation when:

(i) There is no satisfactory opportunity for employment in the veteran's occupation within the jurisdiction of the field station which has jurisdiction over his or her residence, and

(ii) The veteran has a serious employment handicap.

(9) To return to his or her home from which he or she was transferred at government expense to pursue training when, upon completion of his or her course, satisfactory employment is not available;

(10) To return to the location from which he or she traveled without authorization because the VA did not issue the necessary travel authorization on a timely basis. (38 U.S.C. 111) (April 1, 1981)

(c) *Approval of interregional transfer.* Interregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13)) (April 1, 1981)

22. Section 21.374 is added as follows:

§ 21.374 Authorization for travel of attendants.

(a) *Travel for attendants.* The services of an attendant to accompany a veteran while traveling for rehabilitation purposes may be provided when such services are necessitated by the severity of the veteran's disability. Attendants may only be used to enable a veteran

top attend appointments for initial evaluation, counseling, or intraregional or interregional travel at government expense under § 21.370 and § 21.372. (38 U.S.C. 111) (April 1, 1981)

(b) *Attendants not employed by the federal government.* (1) The VA may authorize persons not in regular civilian employment of the federal government to act as attendants. Payment of travel expenses for attendants will be authorized on the same basis as for the veteran the attendant is accompanying. The VA:

(i) Will furnish the attendant with common-carrier transportation, meal and lodging expenses; or

(ii) Will grant the attendant a mileage allowance in lieu of furnishing the assistance cited in paragraph (b)(1)(i) of this section.

(2) The VA will not pay the attendant a fee if he or she is a relative of the veteran. A relative, for this purpose, is a person who by blood or marriage is the veteran's

(i) Spouse,
(ii) Parent,
(iii) Child,
(iv) Brother,
(v) Sister,
(vi) Uncle,
(vii) Aunt,
(viii) Niece, or
(ix) Nephew. (38 U.S.C 111) (April 1, 1981)

(c) *Attendant employed by the federal government.* (1) The VA may authorize a person in the regular civilian employment of the federal government to act as an attendant. When assigned the attendant:

(i) Will be entitled to transportation and expenses, or

(ii) May be allowed per diem in place of subsistence in accordance with the provisions of the Federal Travel Regulations.

(2) The VA will pay no fee to civilian employees of the federal government who act as attendants. (38 U.S.C. 111) (April 1, 1981)

23. Section 21.376 is added as follows:

§ 21.376 Travel expenses for initial evaluation and counseling.

When the VA asks a disabled veteran to report to a designated place for an initial evaluation, reevaluation or counseling (including personal or vocational adjustment counseling), the veteran will travel to and from the place of evaluation and counseling at government expense. When a veteran, because of a severe disability, requires the services of an attendant while traveling, the VA will authorize payment of travel expenses for the attendant under the provisions of § 21.374. (38 U.S.C. 111) (April 1, 1981)

24. A new centerheading and § 21.410 are added as follows:

Additional Administrative Consideration

§ 21.410 Delegation of authority.

Authority is delegated to the Chief Benefits Director, and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Counseling Service designated by the Chief Benefits Director, to make findings and decisions under 38 U.S.C. chapter 31 and the applicable regulations, precedents and instructions, as to rehabilitation services for disabled veterans. (38 U.S.C. 212(a)) (October 1, 1980)

Cross-Reference: See § 21.4001 Delegation of Authority.

25. Section 21.412 is added as follows:

§ 21.412 Finality of decisions.

(a) *Field station of original jurisdiction.* The decision of VA field station in a given veteran's case:

(1) Will be final and binding upon all field stations of the VA as to conclusions based on evidence on file at that time; and

(2) Will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided §§ 21.410 and 21.414. (See §§ 19.153, 19.154, and 19.155. (38 U.S.C. 212(a), 4003) (October 1, 1980)

(b) *Adjudicative determinations.* Current determinations of line of duty, character of discharge, relationship, and other pertinent elements affecting eligibility for training and rehabilitation services or payment of subsistence allowance under chapter 31, made by an adjudicative activity by application of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error. (38 U.S.C. 212(a)) (October 1, 1980)

26. Section 21.414 is added as follows:

§ 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

(a) Clear and unmistakable error, § 3.105(a);

(b) Difference of opinion, § 3.105(b);

(c) Character of discharge, § 3.105(c);

(d) Severance of service-connection, § 3.105(d);

(e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.48, 21.322, and 21.324) (38 U.S.C. 3012) (October 1, 1980)

[FR Doc. 83-24897 Filed 9-14-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-3-FRL 2433-5]

Hazardous Waste Program; West Virginia's Application for Interim Authorization, Phase I and II, Components A and B; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of public hearing and public comment period.

SUMMARY: Today EPA is announcing the availability for public review of the West Virginia Application for Phase I and II, Components A & B, Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application. This is in accordance with agency regulations to protect human health and the environment from improper management of hazardous waste, including the provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization.

DATES: The public hearing on West Virginia's Application is scheduled for Tuesday, October 18, 1983 at 7:30 p.m. The State of West Virginia will participate in the public hearing held by EPA on their application. Written comments on the West Virginia Interim Authorization application must be received by the close of business on October 25, 1983.

ADDRESSES: Copies of the West Virginia Phase I and II, Components A and B, Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

West Virginia Department of Natural Resources, Division of Water Resources, 1201 Greenbrier Street, Charleston, West Virginia 25311, (304) 348-7861 (contact: Claudia Del Giudice)

U.S. EPA Headquarters Library (PM211A), 401 M Street, SW., Washington, DC 20460, (202) 382-5926

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia,

PA 19106, (215) 597-0580 (contact: Diane McCreary)

Written comments should be sent to Renee Gruber, State Programs Section (3AW31), U.S. EPA, Region II, 6th and Walnut Streets, Philadelphia, PA 191906 (215) 597-2809.

The public hearing will be held in the Division of Water Resources' Conference Room located at 1201 Greenbrier Street, Charleston, WV, on Tuesday, October 18, 1983 at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Renee Gruber, State Programs Section (3AW31), U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, (215) 597-2809.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization.

The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. The State of West Virginia is applying for Phase I and II, Components A and B, Interim Authorization which would enable them to regulate generators, transporters and "interim status" hazardous waste management facilities and permit storage and treatment in containers and tanks and to permit hazardous waste incinerators in lieu of the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B, as amended, by 48 FR 14248. As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase I and II interim authorization are to be made available for public inspection and comment. In addition, if significant public interest exists, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-25188 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Parts 9-1, 9-7, and 9-50

Procurement and Assistance Management Directorate Foreign Ownership, Control, or Influence of DOE Contractors

AGENCY: Department of Energy.

ACTION: Extension of comment period on the notice of proposed rulemaking, Foreign ownership, control, or influence of DOE contractors.

SUMMARY: The comment period for the notice of proposed rulemaking on Foreign Ownership, Control, or Influence of DOE Contractors, an addition to the DOE procurement regulations at 41 CFR Parts 9-1, 9-7 and 9-50, is extended to September 30, 1983, from the original due date of September 12, 1983, as published in the **Federal Register** on July 28, 1983 (48 FR 34400). This extension is in response to requests of interested parties and the Business Advisory Council on Federal Reports.

DATES: Written comments must be submitted by September 30, 1983.

ADDRESSES: Send comments to Laura Bick at the address listed below.

FOR FURTHER INFORMATION CONTACT: Laura Bick, Procurement Policy Branch, MA-421.1, Procurement and Assistance Management Directorate, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-8188.

Issued in Washington, D.C., September 9, 1983.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

[FR Doc. 83-25084 Filed 9-14-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 441

Medicaid Program; Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program

Correction

In FR Doc. 83-22477 beginning on page 38011 of the issue of Monday, August 22, 1983, make the following correction: On page 38015, third column, fifth line, "16" should read "18".

BILLING CODE 1505-01-M

Office of Child Support Enforcement

45 CFR Parts 302 and 304

Child Support Enforcement Program; Cost of Services for Non-AFDC Families; Reduction of Expenditures by Fees and Other Income Generated Under the IV-D Program

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations amend OCSE regulation at 45 CFR Parts 302 and 304 to implement section 171(a)(3) of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, and section 2333(c) of Pub. L. 97-35, the Omnibus Budget Reconciliation

Act of 1981. They revise 45 CFR 302.33 to raise the maximum application fee that may be charged to non-AFDC individuals requesting child support enforcement (IC-D) services. They permit States to recover actual or standardized costs which exceed the application fee either from the individual who owes a support obligation to a non-AFDC family receiving IV-D services, or from the non-AFDC individual receiving the services. In the latter case, costs may be recovered directly from the individual or by deducting costs from the support collected. If costs are recovered from the non-AFDC individual receiving IV-D services, the IV-D agency must have in effect a procedure for informing all persons authorized within the State to establish an obligation for support that costs will be recovered from the non-AFDC individual. In addition, the State must notify either the non-AFDC individual or the absent parent, as appropriate, that costs will be recovered. If an applicant for non-AFDC services assigns support rights to the State, the IV-D agency must inform the applicant that the assignment may have the effect of making the support debt dischargeable in bankruptcy.

These proposed regulations also require States to reduce the total expenditures they report for a quarter by the total amount of any fees collected and any other income (e.g., interest earned on collections prior to distribution) generated by services provided both in AFDC and non-AFDC cases under the title IV-D State plan.

DATES: Consideration will be given to written comments received by November 14, 1983.

ADDRESS: Address comments to: Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services, 10th Floor, 6110 Executive Blvd., Rockville, Maryland 20852, Attn.: Policy Branch. Agencies and organizations are requested to submit comments in duplicate. The comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald, Policy Branch, OCSE, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Statutory Requirements

Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981. Section 2333 of Pub. L. 97-35 amended title IV-D of the Social Security Act (the Act) regarding the cost of services for non-AFDC families and the reduction of expenditures by fees and other income generated under the IV-D program. Section 454(6)(B) of the Act was amended to prohibit States from charging an application fee when the non-AFDC family only requests that the IV-D agency collect support on its behalf. A new section 454(19) was added to require States to impose a fee on an individual who owed a support obligation to a non-AFDC family on whose behalf the State was providing IV-D services in an amount equal to ten percent of the amount so owed, and to prohibit States from using any amount collected to safety the fee owed, except when an amount collected exceeded the total arrearage. The provision at section 454(6)(C) of the Act, which has authorized States to deduct any costs which exceed the application fee from any child support collected on behalf of a non-AFDC family, was replaced by a provision permitting only the State which made a collection on behalf of a non-AFDC family to retain the fee imposed against the individual who owed support.

Section 455(a) of the Act was amended to require the Secretary, in determining the total amount expended by a State during a quarter, to exclude the total amount of any fees collected or other income resulting from services provided both in AFDC and non-AFDC cases under the title IV-D State plan.

Section 2336(a) of Pub. L. 97-35 provided that the amendments contained in section 2333 had an effective date of October 1, 1981. However, section 2336(b) authorized the Secretary of Health and Human Services (HHS) to postpone the effective date of these amendments if a State IV-D agency demonstrated to the satisfaction of the Secretary of HHS that State law prohibited it from implementing the amendments on October 1, 1981. If the Secretary allowed a postponement, these amendments would be effective in a State no later than the beginning of the first month after the close of the first regular, special, budget, or other session of the State's legislature ending on or after October 1, 1981.

Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 171 of Pub. L. 97-248 also amends title IV-D of the Act regarding the cost of services for non-AFDC families. Section 171(a)(2) of Pub. L. 97-248 repeals the provision in section 454(6)(B) of the Act, added by section 2333 of Pub. L. 97-35, which prohibited States from charging an application fee when the non-AFDC family only requests that the IV-D agency collect support on its behalf. States may now charge an application fee for any IV-D services provided. Section 171(b)(1) of Pub. L. 97-248 repeals section 454(19) of the Act, added by section 2333 of Pub. L. 97-35, which had required States to impose a ten percent fee on absent parents to cover costs in excess of the application fee for providing services to non-AFDC families. Section 171(a)(3) amends section 454(6)(C) of the Act to permit States providing IV-D services to non-AFDC individuals who request them to recover costs incurred in excess of the application fee either from the absent parent who owes a support obligation or from the non-AFDC individual who is receiving the IV-D services. If costs are recovered from the non-AFDC individual receiving the IV-D services, the IV-D agency must have in effect a procedure for informing all persons authorized within the State to establish obligations that it will recover costs from the non-AFDC individual.

The amendments made by section 171 of Pub. L. 97-248 are effective August 13, 1981, the date that Pub. L. 97-35 was enacted, except as provided in section 176. Section 176 of Pub. L. 97-248 authorizes a delay in the effective date of section 171 if the Secretary of HHS determines that State legislation is required before a State can comply with the changes made by section 171. If the Secretary approves such a delay, the amendments will be effective in the State at the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982 and remained in session for at least 25 calendar days after that date. The term "session" is defined to mean a regular, special, budget, or other session of a State legislature. If State legislation is required before a State can comply with the changes made by section 171, the State should request a delay in the implementation date by contacting the appropriate OCSE Regional Representative.

New Regulatory Provisions at 45 CFR 302.33

OCSE proposes to revise 45 CFR 302.33 to implement the amendments made by sections 171(a)(3) of Pub. L. 97-248 and to make other clarifying changes to the regulation. With regard to the latter, we proposed to revise § 302.33(a) to clarify indicate the services which are available under that section and the individuals who are eligible to receive such services. Other changes to § 302.33 are discussed below.

Definitions

In the proposed § 302.33(b) we have defined the term "applicant's income" as

the disposable income available for the applicant's use under State law. The State must consider applicant's income when determining the non-AFDC application fee according to the fee schedule that States may use under § 302.33(b)(2) (redesignated in this proposal as § 302.33(c)(2)). We believe that the proposed definition will clarify existing program policy with respect to application fee schedules.

Application Fee for Non-AFDC Families

Currently, 45 CFR 302.33(b) permits States to charge an application fee for any IV-D services provided to non-AFDC individuals who request them. No change in this provision is required to be consistent with the amendment made by section 171(a)(2) of Pub. L. 97-248.

Current § 302.33(b)(1), published in 1975, allows States to charge a flat dollar amount, not to exceed $20, as the application fee. OCSE believes that, due to inflation and the need to partially offset increasing State and Federal expenditures in providing services to non-AFDC families, the maximum amount of the flat fee should be raised. Therefore, in line with computations made using the actual or projected Consumer Price Index for the years 1975 through 1984, the proposed § 302.33(c)(1) specifies a maximum fee of $40. We feel that this change will not place an undue burden on non-AFDC individuals who apply for IV-D services because they will receive services from the IV-D agency which may not be available to them from any other source at a comparable cost.

Current § 302.33(b)(2) permits States which do not elect to charge a flat fee to use a fee schedule in determining the amount of the application fee. This provision has been retained and redesignated as § 302.33(c)(2).

Recovery of Costs in Non-AFDC Cases

To implement the new section 454(6)(C) of the Act added by section 171(a)(3) of Pub. L. 97-248, the proposed regulation at § 302.33(d)(1) permits the IV-D agency to elect in its State plan to recover, on a statewide basis, costs incurred in excess of any application fee either: (1) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV-D agency is providing support enforcement services; or (2) from the non-AFDC individual on whose behalf the IV-D agency is providing support enforcement services, either directly or by reducing the amount of the support collection made on the family's behalf. The State may recover costs in excess of the application fee from the non-AFDC individual who is receiving IV-D services only if the State has in effect a procedure for informing all persons authorized within the State to establish a support obligation that the State will recover costs from that individual. States have the flexibility and discretion to establish their own procedures for informing persons authorized to make such orders. States also have the flexibility, in recovering costs from the non-AFDC individual on whose behalf IV-D services are being provided, to deduct costs incurred in excess of any application fee from the support collected on behalf of the individual or directly from the individual. This would allow a State to recover costs from the support collected for as long as collections are made by the State, and then to attempt to recover any remaining unreimbursed costs directly from the individual.

OCSE has consistently interpreted the current 45 CFR 302.33(c) as requiring States that elect in their State plans to recover costs to recover on a case by case basis actual costs which exceed the application fee in non-AFDC cases. However, many States have indicated that the calculation of actual costs on a case by case basis is time consuming and costly. Therefore, in response to States' concerns and to encourage States to recover costs in order to improve the cost-effectiveness of the program, we are proposing to change existing policy to permit the IV-D agency on a case by case basis to recover either actual or standardized costs incurred in excess of the application fee. We believe that section 454(6)(C) permits us to allow States to recover standardized costs in accordance with the proposed 45 CFR 302.33(d) (1) and (2).

If a State chooses to recover standardized costs, it must comply with the requirement in § 302.33(d)(2) that a State develop a written methodology to determine standardized costs which are as close to actual costs as is possible. In either case, we encourage States to strive to minimize costs so as not to discourage the application for services by those most in need of them.

The following examples illustrate a methodology a State could use to determine standard costs. Suppose a State has developed average costs per service figures of: (1) Location $40; (2) establishment of paternity $80; (30) establishment of the support obligation $70; (4) enforcement $50; and (5) collection $50. The State charges a IV-D application fee of $40. If the State establishes paternity, establishes the support obligation and collects support in case X, the State may recover $160 ($80 + $70 + $50 − $40 application fee). If the State at some later date takes enforcment action in case X, the State may recover an additional $50. In another example, if the State only collects support in case Y, the State may only charge $10 ($50 − $40 application fee).

We want to encourage States to recover costs in excess of the application fee in non-AFDC cases to help reduce expenditures in this area while continuing to provide services that may not be available from any other source at a comparable cost. By allowing flexibility to States to collect standardized costs, we hope to simplify the process of recovering costs and increase the likelihood that States will choose to recover costs. If a State elects to recover costs of providing IV-D services in non-AFDC cases, Federal funding remains available for those costs which are not recovered by the State.

We are proposing in §302.33(d)(3) to prohibit the IV-D agency from treating any amount collected from an absent parent as recovered costs except amounts which exceed the total amount of current support owed by the absent parent. We believe that any amounts collected from an absent parent should first be considered as payment toward the current support obligation since one of the objectives of the IV-D program is to help families to remain self-sufficient. Current OCSE policy requires child support collections received for non-AFDC cases established under 45 CFR 302.33 to be considered first as payment on the current support obligation. Support collected up to the amount of the current obligation must be passed on to the family.

If, under the proposed § 302.33(d)(1)(ii), the State elects to recover costs from the individual receiving IV-D services, the proposed § 302.33(d)(4) then permits the IV-D agency to attempt to recover those costs from the absent parent and to pay any amounts recovered to the individual who is receiving IV-D services. This would allow State that elect to recover costs from the individual receiving IV-D services to lessen the impact of cost recovery on that individual. Cost recovered from the absent parent in this situation may not be considered child support payments.

The current regulations at §302.33(c) require a IV-D agency that elects to recover costs from support collections to notify each non-AFDC individual for whom IV-D services are being provided of that fact. We propose at § 302.33(d)(5) to require the IV-D agency that elects to recover costs to notify, as appropriate,

either the non-AFDC individual who has filed an application for IV-D services or the individual who owes a support obligation to a non-AFDC family which is receiving IV-D services that costs will be recovered. Under this requirement, if a responding State in an interstate case elects in its State plan to recover costs from the custodial parent under § 302.33(d)(1)(ii), it may meet the requirement in the proposed §302.33(d)(4) by notifying all other States that it will recover costs from the individual receiving IV-D services. These changes are necessary to ensure that each individual affected by a State's decision to recover costs is notified prior to the recovery of any costs in both intrastate and interstate cases.

Assignment of Support Rights in Non-AFDC Cases

The proposed § 302.33(e)(1) contains the content of the current § 302.33(d) which allows the IV-D agency to take an assignment of support rights from a non-AFDC individual who applies for IV-D services. Such an assignment does not constitute an assignment under 45 CFR 232.11 and may not be a condition of eligibility for receiving IV-D services. We are proposing a new § 302.33(e)(2) which requires the IV-D agency to inform any individual making an assignment in a non-AFDC case that the assignment may have the effect of making the support debt dischargeable in bankruptcy.

Section 523(a)(5)(A) of Title 11, United States Code permits the discharge in bankruptcy of assigned child support obligations, except those obligations assigned to the State under section 402(a)(26) of the Act. The exception was added by section 2334 of Pub. L. 97-35 which amended section 456 of the Act and section 523 of Title 11 to exclude assignment of support rights made as a condition of eligibility for AFDC. However, since voluntary assignments made in non-AFCD. However, since voluntary assignments made in non-AFDC cases are not exempt under section 523 of Title 11, we believe that IV-D agencies should inform non-AFDC individuals applying for IV-D sevices that any assignment of support rights to the State may result in a support debt being discharged if the debtor declares bankruptcy.

New Regulatory Provisions at 45 CFR 304.50

Current OCSE regulations at 45 CFR 304 23(e) provide that Federal funding is not available for expenditures which are reimbursed by fees collected under the title IV-D State plan. This restriction applies to all fees collected by States in AFDC and non-AFDC cases (including those collected under State law) in relation to IV-D activities. In addition, 45 CFR 302.51(e)(2) requires States, which are authorized by former AFDC recipients to continue to collect current support payments from absent parents, to pay all such amounts collected to families after deducting any costs incurred in making the collection from the amount of any recovery made. The new section 454(6)(C) of the Act also permits recovery of costs from the absent parent or from the non-AFDC individual receiving IV-D services for costs incurred in excess of the applicable fee. The amended section 455(a) of the Act requires the Secretary, in determining the total amount expended by a State during a quarter, to exclude any fees collected or other income resulting from services provided in AFDC and non-AFDC cases under the title IV-D State plan.

Therefore, States must reduce their expenditures by: (1) The total non-AFDC application fees collected under the proposed 45 CFR 302.33(c); (2) the total fees collected for non-AFDC Federal Parent Locator Service locate-only requests under 45 CFR 303.70(e)(2) (see 46 FR 54554, November 3, 1981); (3) any fees collected under State law; (4) any costs recovered from collections such as those recovered under 45 CFR 302.51(e)(2) and section 454(6)(C) of this Act; and (5) other income resulting from services provided in AFDC and non-AFDC cases under the title IV-D State plan, in accordance with section 455(a) of the Act. OCSE issued an Action Transmittal (OCSE-AT-81-3) on September 3, 1982 on the reduction of expenditures by fees and other income.

To implement in regulations the amendment made to section 455(a) of the Act by section 2333(c) of Pub. L. 97-35 and section 171(b)(2) of Pub. L. 97-248, we are proposing to add a new 45 CFR 304.50, Treatment of Program Income, to OCSE regulations. The proposed regulation requires States to exclude from their IV-D expenditure claims an amount equal to the total of any fees which are collected in relation to providing IV-D services and any income (e.g., interest earned on collections prior to distribution) which is generated as a result of IV-D activities. This applies to fees or income in both AFDC and non-AFDC cases.

The proposed § 304.50(a) requires the IV-D agency to exclude from its quarterly expenditure claims an amount equal to all fees which are collected under the IV-D State plan. Under this requirement, States must reduce their expenditures by the total application fees collected under the proposed § 302.33(c), the total fees collected for non-AFDC Federal Parent Locator Service locate-only request prescribed in § 303.70(e)(2), and any fees collected under State law before requesting Federal funding for their expenditures.

The proposed § 304.50(b) requires the IV-D agency to exclude from its quarterly expenditure claims an amount equal to all income resulting from services provided under the IV-D State plan. This applies to income related to both AFDC and non-AFDC cases. The term "income" includes, but is not limited to, any costs recovered from non-AFDC individuals receiving IV-D services or absent parents under the proposed § 302.33(d)(1), the costs deducted from current support collections under § 302.51(e)(2), and any interest income earned by a State on collections made under the IV-D State plan.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the revision to the IV-D State plan requirement in § 302.33 has been approved by the Office of Management and Budget under existing OMB No. 0960-0253.

List of Subjects in 45 CFR Parts 302 and 304

Child welfare, Grant programs—social programs.

PART 302—[AMENDED]

1. 45 CFR 302.33 is revised to read as follows:

§ 302.33 Individuals not otherwise eligible for paternity and child support services.

(a) *Availability of services.* The State plan must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving assistance under the Aid to Families with Dependent Children (AFDC) program who files an application for the services with the IV-D agency.

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

Applicant's income means the disposable income available for the applicant's use under State law.

(c) *Application fee.* The State may elect in its State plan to charge an application fee to individuals who apply for services under this section.

(1) The fee may be a flat dollar amount not to exceed $40; or

(2) A fee schedule may be used to determine the fee to be charged each applicant. The fee schedule will be based on the applicant's income and will be designed so as not to discourage the application for services by those most in need of them.

(d) *Recovery of costs.* (1) The State may elect in its State plan to recover any costs incurred in excess of the application fee in providing services under this section. A State which elects to recover costs in excess of the application fee shall collect on a case by case basis either excess actual or standardized costs:

(i) From the individual who owes a support obligation to a non-AFDC family on whose behalf the IV-D agency is providing services under this section; or

(ii) From the individual who has filed an application for IV-D serviceds under this section, either directly or from the support collected on behalf of the indiviidual, but only if the State has in effect a procedure for informing all individuals authorized within the State to establish an obligation for support that the State will recover costs from the individual receiving IV-D services under this section.

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a written methodology to determine standardized costs which are as close to actual costs as is possible.

(3) The IV-D agency shall not treat any amount collected from the individual as a recovery of costs under paragraph (d)(1)(i) of this section except amounts which exceed the current support owed by the individual under the obligation.

(4) If a State elects to recover costs under paragraph (d)(1)(ii) of this section, the IV-D agency may attempt to recover from the individual who owes a support obligation any costs paid by the individual who is receiving IV-D services and pay all amounts recovered to the individual who is receiving IV-D services.

(5) If a State elects to recover costs under this section, the IV-D agency must, consistent with the option selected, notify either the individual who has filed an application for IV-D services or the individual who owes a support obligation that such recovery will be made.

(e) *Assignment.* (1) The IV-D agency may take an assignment of support rights from an individual who applies for services under this section. However, an assignment by an individual under this section does not constitute an assignment under § 232.11 of this title and may not be a condition of eligibility for services under this section.

(2) In any case where the applicant for IV-D services under this section makes an assignment of support rights, the IV-D agency shall first inform the individual that such assignment may have the effect of making the support debt dischargeable in bankruptcy.

2. 45 CFR Part 304 is amended by adding a new § 304.50 to read as follows:

§ 304.50 Treatment of program income.

The IV-D agency must exclude from its quarterly expenditure claims an amount equal to:

(a) All fees which are collected during the quarter under the title IV-D State plan; and

(b) All income earned during the quarter resulting from services provided under the IV-D State plan.

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980.

(Sec. 1102, Social Security Act (42 U.S.C. 1302) and secs. 454(6) and 455(a), Social Security Act (42 U.S.C. 654(6) and 655(a)).

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: November 1, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-25178 Filed 9-14-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Seagoing Barge Act was revised in 1980 to define a seagoing barge as one that proceeds outside the Boundary Lines. The Coast Guard published proposed rules in the 7 June 1982 Federal Register (47 FR 24604) that sought to establish lines for the Seagoing Barge Act and more clearly define the existing Boundary Lines. In view of the substantial changes made to the 7 June 1982 proposed rule as a result of comments received, the Coast Guard is publishing these changes as a supplemental notice of proposed rulemaking to allow for furhter comment prior to publication of a final rule.

DATES: Public hearings will be held on October 18, 1983 and October 26, 1983. All hearings will begin at 10:00 a.m. and end at 4:00 p.m. Comments must be received on or before December 14, 1983.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Public hearings will be held at the following locations:

(1) 26 October 1983: Boston Marine Society, National Historic Park Bldg. No. 32, Charlestown Navy Yard, Boston, MA 02129

(2) 18 October 1983: Ramada Inn Downtown, 1732 Canal St., New Orleans, LA

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Patrick A. Turlo, (202) 426-1464.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81-058), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before expiration of the comment period will be considered before final action is taken on this proposal. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The supplemental rules may be changed in light of comments received. Due to the number and nature of comments received regarding the Boundary Lines in New England and the Gulf of Mexico, public hearings will be held on the dates and at the locations listed above. Additional public hearings are not planned but may be held if

written requests are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander Patrick A. Turlo, Project Manager, Office of Merchant Marine Safety, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion

As amended, the Act of February 19, 1895 (33 U.S.C. 151, The Boundary Line Statute) authorizes the Secretary of Transportation to designate and define the lines dividing the high seas from rivers, harbors and inland waters. These lines, promulgated in 46 CFR Part 7, were initially utilized to determine the application of international and inland navigational rules of the road. Today, six statutes utilize the Boundary Lines to establish applicability. These statutes deal with vessel inspection, equipment and manning standards. They are briefly described as follows:

(1) The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.) requires the carriage of radiotelephones on board certain vessels inside the Boundary Lines. (The requirement is further conditioned upon the vessels being upon the navigable waters of the United States.)

(2) The Officers Competency Certificates Convention, Geneva, 1936, (54 Stat. 1683) is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 224a, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only,") and then defines the high seas with reference to the Boundary Lines.

(3) The Coastwise Loadline Act (46 U.S.C. 88) applies to merchant vessels 150 gross tons and over engaged in coastwise voyages by sea, passing outside the Boundary Lines.

(4) 46 U.S.C. 367, relating to inspection of seagoing vessels of 300 gross tons and over propelled by internal combustion engines, defines seagoing with reference to the Boundary Lines.

(5) 46 U.S.C. 404 sets forth the requirements for the "inspection and manning of small vessels." Exemptions are granted in the statute to certain vessels under 150 gross tons that operate inside the Boundary Lines within the waters of southeastern Alaska and the State of Washington.

(6) The final statute, 33 U.S.C. 152, applies to the length of towing hawsers between towing vessels and barges when operating inside the Boundary Lines.

On 18 August 1980, Pub. L. 96-324 was signed into law. This brought the number of statutes that utilize Boundary Lines for applicability to seven. The Act amended the Seagoing Barge Act, 46 U.S.C. 395, by defining a seagoing barge as one that "proceeds outside the line dividing the inland waters from the high seas, as defined in Section 2 [of the Act] (33 U.S.C. 151)." Previously, the Coast Guard interpreted "seagoing" as describing a vessel that proceeded beyond the headlands.

Under the Act, Boundary Lines may not be located more than twelve miles seaward of the baseline from which the territorial sea is measured and the lines may differ in position for the purposes of different statutes. The establishment and placement of the lines in the proposed regulations relate solely to safety and do not concern themselves with the issue of State or Federal sovereignty or jurisdiction in the areas involved.

Discussion of Comments and Proposed Changes

Forty-seven comment letters were received as a result of the 7 June 1982 notice of proposed rulemaking. The proposed rules in this supplemental notice have been changed based on an evaluation of those comments. Specifically, lines in New England, the Key West, Florida area, and the Gulf of Mexcio have been revised.

1. Nine commenters were opposed to the proposed Boundary Lines in the New England area on the grounds that "harbor barges" in the marine construction industry would come under the Seagoing Barge Act. Such barges were described as operating within harbors and rivers.

Present regulations and policy call for inspection of barges of 100 gross tons and over once they proceed past the headlands. This policy is being maintained in the proposed rules for the New England area. Seagoing barges *under* 100 gross tons are not required to be inspected under the Seagoing Barge Act (46 U.S.C. 395). Those harbor barges of *100 gross tons and over* that work within harbors and rivers (inside the Boundary Lines established for the Seagoing Barge Act) are also not required to be inspected under 46 U.S.C. 395. Only those barges of 100 gross tons and over that proceed beyond the Boundary Lines are required to be inspected and certificated under 46 U.S.C. 395. As discussed in the following paragraph, those inland barges that make occasional voyages outside the Boundary Lines for "change of employment" have been accommodated.

2. Two commenters requested that the matter of "change of employment" certificates of inspection be addressed in the preamble. Those inland barges that work on rivers and harbors are not required to be inspected under 46 U.S.C. 395. However, such barges of 100 gross tons and over that proceed on the high seas enroute to a project or job in another inland area must be certificated *for that voyage.*

Title 46, Code of Federal Regulations, § 91.01-10(c) provides for the issuance of certificates of inspection for "change of employment" voyages. The barges issued such certificates are not required to undergo plan approval prior to issuance of a certificate of inspection (COI). The Coast Guard Officer in Charge, Marine Inspection (OCMI) must, however, be satisfied that the vessel is safe for the intended voyage. The regulation regarding "change of employment" certificates and the policies relating thereto will not be changed as a result of this Boundary Line rulemaking.

3. Two commenters recommended that the proposed Boundary Line for application of the Seagoing Barge Act be changed to allow uninspected barges to operate (a) from Maine to Rhode Island and (b) from Boston to New York. One of the commenters indicated that such traffic with uninspected barges has been allowed in the past.

Applicability of the Seagoing Barge Act has been determined by whether or not a barge proceeded past the headlands. Those barges making voyages along the entire New England coast or from Boston to New York have been subject to inspection and certification under 46 U.S.C. 395. Those inland barges making "change of employment" voyages were required to be certificated but could receive limited certificates of inspection for a single voyage outside the headlands. Those barges that routinely operated outside the headlands must be issued a regular COI.

Due to the harsh climate and rough waters along the New England coast, the Coast Guard believes that, in the interest of safety, inland barges should

not be permitted to routinely operate along the entire New England coast. Therefore, a separate line for the Seagoing Barge Act was proposed in the area from Main to Cape Cod. No changes to the 7 June 1982 proposal have been made in the area from Main to Cape Cod based on the comments received.

One commenter noted that the Boundary Line for the Seagoing Barge Act in the area from Cape Code to Block Island in the 7 June 1982 proposal extended seaward from past practices. Historically, in this area, only portions of Block Island Sound, Vineyard Sound and Nantucket Sound could be navigated by uninspected barges. The proposal would have included all of Vineyard Sound and Nantucket Sound and would have drawn the Boundary Line from Gay Head to Block Island Light to Montauk Light.

For the reasons stated above, the Coast Guard does not intend to establish a line for seagoing barges in the New England-New York area which would allow uninspected barges to proceed beyond historically established boundaries. Therefore § 7.5(b)(6), (7) and (8) have been added in this supplemental notice of proposed rulemaking to delineate lines for the Seagoing Barge Act in Buzzards Bay, Narrangansett Bay, Block Island Sound, Vineyard Sound and Nantucket Sound.

4. Four commenters recommended that Hawk Channel between Key West and Miami, Florida remain inside the Boundary Lines. This would allow inspected tank barges to proceed to Key West from Miami without loadlines, as is the case now.

The proposed lines in § 7.100 of this supplemental notice for the Key West area have been relocated to their prior position thereby allowing tank barges without loadlines to continue operating to Key West within the Boundary Lines. These barges have historically operated in Hawk Channel with a satisfactory safety and pollution record.

5. Four commenters requested that the Boundary Line at St. Marks, Florida be moved out to allow tank barge traffic to operate between St. Marks, and Carrabelle inside the Boundary Line. This change would allow such tank barges to safely operate on limited voyages without loadlines thereby greatly reducing transportation costs.

In view of the limited route and area of operation of the tank barges concerned, § 7.130 of this supplemental notice contains a proposed change that would allow such barges without loadlines to operate between Carrabelle and St. Marks.

6. One commenter was opposed to the Boundary Lines along the west coast of Florida. The reasoning was that tank barges operating between St. Marks and Tampa would no longer be able to operate inside the sea buoys with "limited loadlines."

The NPRM and § 7.120 of this supplemental notice propose a line for the Tampa area that is nearly identical to the line published in 46 CFR Part 7. The line proceeds from shore to two sea buoys and then back in to shore. It is not possible under the past, present, or proposed rule to proceed to or from sea at Tampa without crossing the Boundary Line. Vessels entering or departing Tampa therefore are subject to 46 U.S.C. 88, the Coastwise Loadline Act, since they must proceed on the high seas (i.e., beyond the Boundary Line). The vessels must therefore be issued loadline certificates under the present Boundary Lines and under this supplemental notice. Whether a particular vessel is issued a standard loadline certificate or a "limited loadline" certificate is a matter to be decided utilizing the loadline regulations and published Coast Guard policy. Such a decision does not depend on the location of the Boundary Lines.

7. One commenter recommended extending the Boundary Line at Perdido Pass, Florida to accommodate dredging operations to the sea buoy. Since the recommended change would have no foreseeable effect on safety, the proposed line for Perdido Pass in § 7.135(g) of this supplemental notice has been extended to the sea buoy.

8. Numerous comments were received concerning the location of the proposed lines in the Gulf of Mexico. Ten comments recommended a 12-mile Boundary Line for all purposes. Eleven others supported a 12-mile line for vessels in support of the offshore oil industry. There were 4 comments which recommended that just drilling barges be authorized to drill out to 12 miles if in less than 30 feet of water without undergoing Coast Guard inspection and certification. Other comments addressed specific problems such as proposed coal lightering off the Mississippi River passes, dredging operations and safety in the Gulf Intra-Coastal Waterway.

Operations in the Gulf of Mexico present a unique situation because of the historical positioning of the Boundary Line well offshore of Texas and Louisiana. Such placement of the line in the Gulf of Mexico is warranted from a safety viewpoint because of the warm climate, shallow-water depths, warm water temperatures, and high volume of offshore rigs and vessel traffic that could serve as rescue platforms.

The Coast Guard recognizes that both barges and self-propelled vessels, including those operating in support of the offshore industry, have operated safely for years in waters that are many miles offshore in the Gulf of Mexico.

The Coast Guard has continually stated that it is not our intention to use Boundary Line regulations in a manner that would result in additional vessels being unnecessarily brought under inspection and certification. The proposed Boundary Lines in §§ 7.140 through 7.160 of this supplemental notice for the Gulf of Mexico have therefore been moved to where they historically have been located or up to the maximum of 12 miles authorized by the Act. This represents a major change from the proposed rule of 7 June 1982. Because the Vessel Bridge-to-Bridge Radiotelephone Act is limited to the navigable waters of the U.S., the line is set at 3 miles for this statute.

Moving the lines out to 12 miles in areas where they have traditionally been in closer to shore was a matter that was taken into consideration. However, such a change could conceivably have an adverse effect on safety by opening such areas to vessels that have not historically operated in those offshore waters. Such changes could, however, be reconsidered in the future following an analysis of barge activity in the Gulf of Mexico where lines are now being proposed up to 12 miles offshore for the Seagoing Barge Act.

The Boundary Lines establish the applicability of the Seagoing Barge Act (and 6 other statutes). Barges of 100 gross tons and over that remain inside the Boundary Lines are not subject to inspection under authority of the Seagoing Barge Act. Drilling units may, however, be subject to varying degrees of inspection under the Outer Continental Shelf Lands Act (OCSLA), as amended, or other applicable statutes. The fact that a shallow-water or posted drilling barge remains inside the Boundary Line does not exempt it from OCSLA requirements and other applicable statutes.

The Boundary Lines proposed in this supplemental notice should accommodate the concerns expressed by the commenters, to the extent permitted by the governing statutes.

9. One commenter recommended extending the Boundary Line in the Galveston area to include the proposed precautionary area delineated in the 17 June 1982 **Federal Register** (CGD 81-080). The commenter stated that moving the line out would be a move toward establishing control over the approaches to the Galveston-Houston pilot station.

The Boundary Lines, which have no direct relationship to the precautionary area in question, are not intended to establish "control" over certain waters along the coast. The Boundary Lines instead establish the applicability of the seven marine safety statutes that refer to the Boundary Line statute (33 U.S.C. 151). Furthermore, moving the lines out beyond the precautionary area would have an opposite effect from that intended by the commenter. For example, self-propelled vessels of 300 or more gross tons that proceed beyond the Boundary Lines must be inspected and certificated. Therefore, if the precautionary area were inside the Boundary Lines, vessels of 300 gross tons and over could proceed to and/or through the precautionary area and not be subject to inspection. The result would be less control over the vessels that transit the precautionary area.

The Vessel Bridge-to-Bridge Radiotelephone Act [33 U.S.C. 1201 et seq.] is the one statute (out of the 7 that refer to Boundary Lines) that is most closely related to the commenter's concerns, the prevention of hazardous manuevering and navigation in the precautionary area. The applicability of that act is limited by law to 3 miles from shore.

10. Two commenters recommended redoing the Boundary Lines in areas other than the Gulf of Mexico to permit uninspected non-self-propelled dredges to engage in necessary beach replenishment projects.

In order to accommodate dredges conducting beach replenishment operations in areas other than the Gulf of Mexico, it would be necessary to establish a separate line 2 to 3 miles offshore in those areas. However, this line would be applicable to *all* seagoing barges under the Seagoing Barge Act. Dredges cannot be singled out among other barges because the Boundary Line statute (33 U.S.C. 151) allows for only one line to be established for each statute. The Coast Guard has determined in the interest of safety that not *all* uninspected barges of 100 gross tons and over should be allowed to proceed past the headlands in *all* areas of the United States. Many inland barges are not constructed for operations in offshore waters.

Therefore, the proposed lines in areas other than the Gulf of Mexico are not changed in this supplemental notice to accommodate beach replenishment operations. Consideration will be given to allowing OCMIs to issue short-term certificates of inspection to inland dredges which would be used for specific beach replenishment projects outside the Boundary Lines. However, such changes are beyond the scope of this rulemaking.

11. One commenter recommended moving the Boundary Lines for the Seagoing Barge Act in to shore and establishing "reduced" construction standards for barges that operate no more than 12 miles offshore. While this alternative has merits, it would bring under inspection and certification hundreds of vessels that have not been under the program in the past. The Coast Guard does not intend to affect those uninspected vessels that have operated safely for years in near offshore waters. No proposed changes to the rules have been made as a result of this amount.

12. One commenter recommended that the final rules discuss the relationship between Boundary Lines and the requirements of the Federal pilotage statute, 46 U.S.C. 364. "Seagoing," as used in 46 U.S.C. 364, is not related to the Boundary Lines. The Boundary Lines statute, 33 U.S.C. 151, states that lines will be established "for the purpose of determining applicability of each statute that refers to" 33 U.S.C. 151. The statute in question, 46 U.S.C. 364, does *not* refer to 33 U.S.C. 151. Therefore, a vessel is "seagoing" for the purposes of 46 U.S.C. 364 if it proceeds past the headlands, not the Boundary Lines.

The commenter further recommended that the applicability section of the proposed rules, proposed 46 CFR 7.1, specify that the Boundary Lines do not apply to the Federal pilotage requirements of 46 U.S.C. 364. The applicability section will continue to list only those statutes that utilize Boundary Lines. Therefore, those statutes *not* listed do not utilize Boundary Lines for applicability. No change to § 7.1 has been made in this supplemental notice of proposed rulemaking.

13. Seven commenters requested public hearings regarding lines in the Gulf of Mexico and along the New England coast. Since an early decision was made by the Coast Guard to issue a supplemental notice, no public hearings were held regarding the initial proposal. Although problems in the Gulf of Mexico and New England should be resolved by changes proposed in this supplemental notice, public hearings will be held as indicated under **"DATES"** and **"ADDRESSES."**

14. One commenter recommended that sea buoys be used to delineate the extremities of the Boundary Lines at different ports as opposed to fixed positions (latitude and longitude). Channels could then be dredged utilizing inland equipment in those areas where natural sediments are being carried further seaward necessitating periodic repositioning of the sea buoys to sea.

In the 7 June 1982 NPRM, fixed coordinates are included in parentheses after the name of each buoy that is used to define Boundary Lines. The coordinates are deemed necessary in that buoys are not considered fixed aids. In those areas where aids to navigation are removed from service, the fixed position (latitude/longitude) would be used to delineate the positioning of the Boundary Lines. In rare cases where the sea buoy is moved beyond 12 miles, the fixed position would, of necessity, take precedence because the Boundary Line statute (33 U.S.C. 151) limits the positioning of Boundary Lines to "12 miles seaward of the base line from which the territorial sea is measured." In all other cases, the fixed position (latitude/longitude) would also take precedence until an evaluation of any change in a buoy's position is made. Following an evaluation, the line may be changed if deemed necessary. To more clearly indicate the relationship of the fixed coordinates and the buoys, the names of the buoys are now in parentheses.

Discussion of Proposed Rules

Proposed § 7.5 lists exceptions to the Boundary Lines. The 7 June 1982 proposal has been changed by eliminating paragraph (c) of § 7.5 which proposed an exception for drilling barges that are being towed. The need for an exception regarding towed drilling barges was eliminated by changes made to this supplemental notice that extended the Boundary Line up to 12 miles offshore in the Gulf of Mexico. The exceptions to the proposed Boundary Lines are now:

(a) Lines for the Vessel Bridge-to-Bridge Radiotelephone Act are set at three miles, the extent of the navigable waters of the United States. In general, this proposed three-mile limit represents an extension of the applicability of this Act from the current lines. The current lines normally provide coverage to the sea buoys only, or, in some cases, not even that distance offshore. The radiotelephone requirements are therefore not applicable to traffic lanes and other relatively congested areas outside the harbors and channels covered by the current lines. The safety of vessels in these areas would be greatly enhanced by extending the line to three miles for this Act. Easy identification of the line applicable to this Act would also be a benefit derived from this proposed change in applicability.

(b) Separate lines for the Seagoing Barge Act are established for the New England area where the current Boundary Lines are deemed not satisfactory for the purpose of application of this particular Act. Historically, barges have been required to be inspected once they proceeded past the headlands since no specific lines for this Act were authorized or established. Application of the line proposed for the five other statutes would allow barges built for inland waters to proceed out on the high seas without inspection. Certain barges built to inland scantling are not safe for operation in offshore waters outside of the Gulf of Mexico, especially in the New England climate. Therefore, a proposed line in close to the headlands has been established for application of this Act in the New England area. This separate line for the Seagoing Barge Act closely approximates the lines used under the headlands rule in the past (and in use now) for seagoing barges.

The present line for the other five statutes remains basically unchanged and is deemed satisfactory due to the irregular nature of the coastline and the type of vessel traffic in the New England area.

(c) Application of the Seagoing Barge Act in the sheltered waters of British Columbia is waived as set forth in the United States-Canada treaty of 1933.

Proposed §§ 7.10 through 7.235 revise and redefine Boundary Lines to meet the intent of the six marine safety statutes that currently employ the Boundary Line statute (33 U.S.C.. 151). The line for the seventh statute, the Vessel Bridge-to-Bridge Radiotelephone Act, is set at 3 miles. The major proposed revisions in the supplemental notice are made in the Gulf of Mexico and Key West, Florida. Except for the lines and exceptions in proposed § 7.5, the lines for all of the applicable statutes are consolidated into one line. Lines for harbors and inlets still not specifically established in the proposed regulations are governed by the general rule in 46 CFR 7.3.

Regulatory Evaluation

These proposed regulations have been determined to be non-major regulations in accordance with the guidelines set out in Executive Order 12291, and are also considered to be non-significant under the "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 of May 22, 1980). A further economic evaluation of the proposed regulations is not considered necessary since their impact is expected to be minimal. Any economic benefits that would result from this proposal cannot accurately be determined. However, they are expected to be minimal since there is little change from current requirements.

The 7 June 1982 NPRM indicated that the economic impact was expected to be minimal. Some commenters disagreed with this finding. Commenters concerned with the Gulf of Mexico state that the lines as proposed by the NPRM would require the inspection and certification of barges that are presently uninspected. Barges that proceed beyond the headlands must be inspected according to present inspection policy. In the Gulf of Mexico, the proposed Boundary Line for the Seagoing Barge Act recognizes historical use and is located up to 12 miles from the base line. If adopted, this would reduce the burden of inspection. While some uninspected barges may currently be operating beyond the headlands no new economic burden is imposed since they should be inspected at the present time.

Commenters concerned about Key West, Florida, state that the lines as proposed by the NPRM would place the Key West island chain seaward of the Boundary Line and that as a result, loadlines would be required for inspected tank barges. The tank barges would then carry less oil per trip because of the loadlines and Key West residents would be subject to substantial increases in the cost of oil because of a corresponding increase in the cost of transportation. This supplemental notice proposes to return the Boundar Lines in the Key West area to its existing location.

Commenters concerned about the New England area state that the positioning of the Boundary Lines as proposed by the NPRM would create a severe economic burden on the local construction barge industry. However, the lines as proposed by the NPRM and SNPRM are identical to the existing practices for seagoing barges. Therefore, no new economic burden would be imposed.

This SNPRM returns the Boundary Lines to its existing location whenever possible. The Boundary Line statute (33 U.S.C. 151) prevents the positioning of a line beyond 12 miles. This document proposes to bring the Boundary Line shoreward of the existing location only when the existing location is set beyond 12 miles. Since the Coast Guard is required to locate the Boundary Lines no more than 12 miles from the baseline, this SNPRM makes the maximum possible accommodation of existing practices.

The Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96–354) requires an analysis of the impact of proposed regulations on small businesses, organizations, and small governmental jursidictions. This proposal would have only a minor economic impact on these entities since the changes of the lines would not create any new economic costs. A slight economic benefit may result; however, it cannot be accurately estimated. Pursuant to section 605(b) of the Act, it is certified that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 7

Law enforcement, Vessels.

Accordingly, Part 7 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. By revising 46 CFR Part 7 to read as follows:

PART 7—BOUNDARY LINES

General

Sec.
7.1 General purpose of boundary lines.
7.3 General rule for establishing boundary lines.
7.5 Exceptions.

Atlantic Coast

7.10 Eastport, ME to Cape Ann, MA.
7.15 Massachusetts Bay, MA.
7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Inland Sound and easterly entrance to Long Island Sound, NY.
7.25 Montauk Point, NY to Atlantic Beach, NY.
7.30 New York Harbor, NY.
7.35 Sandy Hook, NJ to Cape May, NJ.
7.40 Delaware Bay and Tributaries.
7.45 Cape Henlopen, DL to Cape Charles, VA.
7.50 Chesapeake Bay and Tributaries.
7.55 Cape Henry, VA to Cape Fear, NC.
7.60 Cape Fear, NC to Sullivans Island, SC.
7.65 Charleston Harbor, SC.
7.70 Folly Island, SC to Hilton Head Island, SC.
7.75 Savannah River/Tybee Roads.
7.80 Tybee Island, GA to St. Simons Island, GA.
7.85 St. Simons Island, GA to Little Talbot Island, FL.
7.90 St. Johns River, FL.
7.95 St. John Point, FL to Miami Beach, FL.
7.100 Florida Reefs and Keys from Miami, FL to Cape Sable, FL.

Gulf Coast

7.105 Cape Sable, FL to Sanibel Island, FL.
7.110 Pine Island Sound, FL and Charlotte Harbor, FL.
7.115 Port Boca Grande, FL to Anna Maria Key, FL.
7.120 Tampa Bay, FL and Tributaries.
7.125 St. Petersburg, FL to Rock Island, FL.
7.130 Rock Island, FL to Cape San Blas, FL.
7.135 Cape San Blas, FL to Perdido Bay, FL.
7.140 Mobile Bay, AL to Mississippi Passes, LA.

Sec.
7.145 Mississippi Passes, LA.
7.150 Mississippi Passes, LA to Sabine Pass, TX.
7.155 Sabine Pass, TX to Galveston, TX.
7.160 Galveston, TX to Rio Grande, TX.

Hawaii

7.165 Mamala Bay, HI.

Pacific Coast

7.170 Santa Catalina Island, CA.
7.175 Mexican/United States border to Point Fermin, CA.
7.180 Point Vincente, CA to Point Conception, CA.
7.185 Point Conception, CA to Point Sur, CA.
7.190 Point Sur, CA to Cape Blanco, OR.
7.195 Cape Blanco, OR to Cape Flattery, WA.
7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

Alaska

7.205 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.
7.210 Cape Spencer, AK to Cape St. Elias, AK.
7.215 Point Whitshed, AK to Aialik Cape, AK.
7.220 Kenai Peninsula, AK to Kodiak Island, AK.
7.225 Alaska Peninsula, AK to Aleutian Islands, AK.
7.230 Alaska Peninsula, AK to Nunivak, AK.
7.235 Kotzebue Sound, AK.

Authority: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

General

§ 7.1 General purpose of boundary lines.

The lines in this part delineate the application of the following U.S. statutes relating to vessel inspection, equipment and manning requirements: 33 U.S.C. 152; 33 U.S.C. 1201 et seq.; 46 U.S.C. 88; 46 U.S.C. 224a; 46 U.S.C. 367; 46 U.S.C. 395; and 46 U.S.C. 404.

§ 7.3 General rule for establishing boundary lines.

Except as otherwise described in this part, boundary lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the seaward, highwater shorelines across entrances to small bays, inlets and rivers.

§ 7.5 Exceptions.

(a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 et. seq., the line is 3 miles seaward of the baseline from which the territorial sea is measured.

(b) For application of the Seagoing Barge Act, 46 U.S.C. 395, the following lines apply to all harbors on the coast of Maine, New Hampshire, Massachusetts, Rhode Island and New York between West Quoddy Head, Maine and Montauk Point, New York:

(1) A line drawn from the southeasternmost extremity of Western Head to the southernmost extremity of Double Shot Islands; thence to Libby Island Light; thence to Moose Peak Light; thence to the eastern extremity of Little Pond Head.

(2) A line drawn from the southern extremity of Pond Point, Great Wass Island, to the southermost point of Crumple Island; thence to the southernmost extremity of Petit Manan Point, thence to the southernmost extremity of Schoodic Island; thence to the southern point of Eastern Head, Isle Au Haut.

(3) A line drawn from Western Head, Isle Au Haut, to Marshall Point Light; thence to Pemaquid Point Light; thence to the southern point of Small Point, Cape Small; thence to Cape Elizabeth Light; thence to the easternmost extremity of Fletcher Neck.

(4) A line drawn from the easternmost extremity of Sisters Point, Gerrish Island, to the easternmost extremity of Odiornes Point.

(5) A line drawn from the southernmost extremity of Eastern Point, Cape Ann to Strawberry Point. A line drawn from the tower at Brant Rock located in approximate position latitude 42°05.5′ N. longitude 70°38.6′ W, to the westernmost extremity of Race Point.

(6) A line drawn from the abandoned lighthouse on Point Gammon at approximate position latitude 41°36.6′ N. longitude 70°16′ W. to Cape Poge Light.

(7) A line drawn from the westernmost extremity of Gay Head, Martha's Vineyard to the westernmost extremity of Naushon Island; thence to the southermost extremity of Mishaum Point, Smith Neck.

(8) A line drawn from the southernmost extremity of Sakonnet Point to the southermost extremity of West Island in approximate position latitude 41°27.0′ N. longitude 71°11.9′ W.; thence to Point Judith Light; thence to Montauk Point Light.

(c) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 are not required to be inspected as seagoing barges under the Seagoing Barge Act, 46 U.S.C. 395.

Atlantic Coast

§ 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to latitude 44°54′45″ N. longitude 66°58′30″ W.; thence to the range marker located in approximate position latitude 44°51′45″ N. longitude 66°59′ W.

(b) A line drawn from West Quoddy Head Light to latitude 44°48.5′ N. longitude 66°56.4′ W. (Sail Rock Lighted Whistle Buoy "1"); thence to latitude 44°37.5′ N. longitude 67°09.8′ W. (Little River Lighted Whistle Buoy "2LR"); thence to latitude 44°14.5′ N. Longitude 67°57.2′ W. (Frenchman Bay Approach Lighted Whistle Buoy "FB"); thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to latitude 43°31.6′ N. longitude 70°05.5′ W. (Portland Lighted Horn Buoy "P"); thence to Boon Island Light; thence to latitude 42°37.9′ N. longitude 70°31.2′ W. Cape Ann Lighted Whistle Buoy "2").

§ 7.15 Massachusetts Bay, MA

A line drawn from latitude 42°37.9′ N. longitude 70°31.2′ W. (Cape Ann Lighted Whistle Buoy "2") to latitude 42°22.7′ N. longitude 70°47.0′ W. (Boston Lighted Horn Buoy "B"); thence to Race Point Light.

§ 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to latitude 41°36.1′ N. longitude 69°51.1′ W. (Pollack Rip Entrance Lighted Horn Buoy "PR"; thence to latitude 41°26.0′ N. longitude 69°46.2′ W. (Great Round Shoal Channel Lighted Buoy "2"); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

§ 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to highlands light (north tower).

§ 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2′ N. longitude 74°32.2′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, high-water shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

§ 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to latitude 38°55.8′ N. longitude 74°51.4′ W. (Cape May Harbor Inlet Lighted Bell Buoy "2CM"); thence to latitude 38°48.9′ N. longitude 75°02.3′ W. (Delaware Bay Entrance Channel Lighted Buoy "8"); thence to the northernmost extremity of Cape Henlopen.

§7.45 Cape Henlopen, DL to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to latitude 38°36.5′ N. longitude 75°02.8′ W. (Indian River Inlet Lighted Gong Buoy "1"); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to latitude 38°19.4′ N. longitude 75°05.0′ W. (Ocean City Inlet Entrance Lighted Buoy "4"); thence to latitude 38°19.3′ N. longitude 75°05.1′ W. (Ocean City Inlet Entrance Lighted Buoy "5"); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to the tower charted at latitude 37°52.6′ N. longitude 75°26.7′ W.

(d) A line drawn from the southernmost extremity of Cedar Island to latitude 37°34.7′ N. longitude 75°36.0′ W. (Wachapreague Inlet Entrance Lighted Buoy "1"); thence due south to shore ar Parramore Beach.

(e) A line drawn from the seaward tangent of Parramore Beach to the lookout tower on the northern end of Hog Island charted in approximate position latitude 37°27.2′ N. longitude 75°40.5′ W.

§ 7.50 Cheaspeake Bay and tributaries.

A line drawn from Cape Charles Light to latitude 36°56.8′ N. longitude 75°55.1′ W. (North Chesapeake Entrance Lighted Gong Buoy "NCD"); thence to latitude 36°54.8′ N. longitude 75°55.6′ W. (Chesapeake Bay Entrance Lighted Bell Buoy "CBC"); thence to latitude 36°55.0′ N. longitude 75°58.0′ W. (Cape Henry Buoy "1"); thence to Cape Henry Light.

§ 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to Rudee Inlet Jetty Light "1".

(b) A line formed by the centerline of the highway bridge across Oregon Inlet.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04′ N. longitude 76°00.8′ W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7′ N. longitude 76°02.3′ W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to latitude 34°38.4′ N. longitude 76°40.6′ W. (Beaufort Inlet Lighted Bell Buoy "2BI"); thence to the seaward extremity of the Beaufort Inlet west jetty.

§ 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity of Cape Fear to latitude 33°49.5′ N. longitude 78°03.7′ W. (Cape Fear River Entrance Lighted Bell Buoy "2CF"); thence to Oak Island Light.

(b) A line drawn from Georgetown Light to latitude 33°11.6′ N. longitude 79°05.4′ W. (Winyah Bay Lighted Bell Buoy "2WB"); thence to the southernmost extremity of Sand Island.

§ 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to latitude 32°40.7′ N. longitude 79°42.9′ W. (Charleston Lighted Whistle Buoy "2C"); thence to Folly Island Loran Tower (latitude 32°41.0′ N. longitude 79°53.2′ W.).

§ 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southwesternmost extremity of Folly Island to the easternmost extremity of Kiawah Island at Sandy Point.

(b) A line drawn from the southermost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3′ N. longitude 80°19.2′ W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5′ N. longitude 80°26.5′ W.

(d) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to latitude 32°04.8′ N. longitude 80°34.9′ W. (Port Royal Sound Lighted Whistle Buoy "2PR"); thence to the easternmost extremity of Hilton Head at latitude 32°13.2′ N. longitude 80°40.1′ W.

§ 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to latitude 31°58.3′ N. longitude 80°44.1′ W. (Tybee Lighted Whistle Buoy "T"); thence to the southernmost point of Savannah Beach, bearing approximately 278° true.

§ 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn approximately parallel with the general trend of the seaward, highwater shorelines from the seaward tangent of Wassaw Island to the seaward tangent of Bradley Point on Ossabaw Island.

(d) A north-south line (longitude 81°08.4′ W.) drawn from the southernmost extremity of Ossabaw Island to St. Catherines Island.

(e) A north-south line (longitude 81°10.6′ W.) drawn from the southernmost extremity of St.

Catherines Island to Northeast Point on Blackbeard Island.

(f) A line following the general trend of the seaward, highwater shoreline across Cabretta Inlet.

(g) A north-south line (longitude 81°16.9′ W.) drawn from the southesternmost point on Sapelo Island to Wolf Island.

(h) A north-south line (longitude 81°17.1′ W.) drawn from the southeasternmost point on Wolf Island to the northeasternmost point on Little St. Simons Island.

(i) A line drawn from the southernmost extremity of Little St. Simons Island to the easternmost extremity of Sea Island.

(j) An east-west line from the southernmost extremity of Sea Island across Goulds Inlet to St. Simons Island.

§ 7.85 St. Simon Island, GA to Little Talbot Island, FL.

(a) A line drawn from the tower located 1,700 yards bearing 060° true from St. Simons Light to latitude 31°04.1′ N. longitude 81°16.7′ W. (St. Simons Lighted Whistle Buoy "ST S"); thence to the northernmost tank on Jekyll Island charted in approximate position latitude 31°05.9′ N. longitude 81°24.5′ W.

(b) A line drawn from the southernmost tank on Jekyll Island charted in approximate position latitude 31°01.6′ N. longitude 81°25.2′ W. to latitude 30°58.7′ N. longitude 81°22.4′ W. (St. Andrew Sound Buoy "11"); thence to the abandoned lighthouse tower on the north end of Little Cumberland Island charted in approximate position latitude 30°58.5′ N. longitude 81°24.8′ W.

(c) A line drawn from the seaward end of the north St. Mary's Entrance jetty to latitude 30°42.7′ N. longitude 81°19.0′ W. (St. Mary's Entrance Lighted Whistle Buoy "1"); thence to Amelia Island Light.

(d) A line drawn from the southernmost extremity of Amelia Island to the northeasternmost extremity of Little Talbot Island.

§ 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little Talbot Island to latitude 30°23.8′ N. longitude 81°20.3′ W. (St. Johns Lighted Whistle Buoy "2 STJ"); thence to St. Johns Light.

§ 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn across the seaward extremity of the St. Augustine Inlet Jetties.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn across the seaward extremity of the Ponce de Leon Inlet Jetties.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to latitude 28°23.7′ N. longitude 80°32.2′ W. (Canaveral Bight Wreck Lighted Buoy "WR6"); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9′ N. longitude 80°36.6′ W.

(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to latitude 27°28.5′ N. longitude 80°16.2′ W. (Fort Pierce Inlet Lighted Whistle Buoy "2"); thence to the tower located in approximate position latitude 27°27.2′ N. longitude 80°17.2′ W.

(g) A north-south line (longitude 80°09.8′ W.) drawn across St. Lucie Inlet through St. Lucie Inlet Entrance Range Front Daybeacon.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast Extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to latitude 26°46.4′ N. longitude 80°01.5′ W. (Lake Worth Inlet Lighted Bell Buoy "2LW"); thence to Lake Worth South Light "1"; thence to the seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the South Lake Worth Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Baton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower located in approximate position latitude 26°06.9′ N. longitude 80°06.4′ W. to latitude 26°05.5′ N. longitude 80°04.8′ W. (Port Everglades Lighted Whistle Buoy "1"); thence to the signal tower located in approximate position latitude 26°05.5′ N. longitude 80°06.5′ W.

(n) A line formed by the centerline of the highway bridge over Bakers Haulover Inlet.

§ 7.100 Florida Reefs and Keys from Miami, FL to Cape Sable, FL.

(a) A line drawn from the tower located in approximate position latitude 25°46.7′ N. longitude 80°08′ W. to latitude 25°46.1′ N. longitude 80°05.0′ W. (Miami Lighted Whistle Buoy "M"); thence to Fowey Rocks Light (latitude 25°35.4′ N. longitude 80°05.8′ W.); thence to Pacific Reef Light (latitude 25°22.3′ N. longitude 80°05.5′ W.) thence to Carysfort Reef Light (latitude 25°13.3′ N. longitude 80°12.7′ W.); thence to Molasses Reef Light "10" (latitude 25°00.7′ N. longitude 80°22.6′ W.); thence to Alligator Reef Light (latitude 24°51.1 N. longitude 80°37.1′ W.); thence to Tennessee Reef Light (latitude 24°44.7′ N. longitude 80°46.9′ W.); thence to Sombrero Key Light (latitude 24°37.6′ N. longitude 81°06.6′ W.); thence to American Shoal Light (latitude 24°31.5′ N. longitude 81°31.2′ W.); thence to latitude 24°27.7′ N. longitude 81°48.1′ W. (Key West Entrance Lighted Whistle Buoy); thence to Cosgrove Shoal Light (latitude 24°27.5′ N. longitude 82°11.2′ W.); thence to the westernmost extremity of Marquesas Keys.

(b) A line drawn from the northwesternmost extremity of Marquesas Keys to latitude 24°38.8′ N. longitude 81°54.0′ W. (Northwest Channel Entrance Lighted Bell Buoy "1"); thence to the southernmost extremity of East Cape, Cape Sable.

Gulf Coast

§ 7.105 Cape Sable, FL to Sanibel Island, FL.

(a) A line drawn following the general trend of the mainland, highwater shoreline from Cape Sable at East Cape to Little Shark River Entrance Light "1"; thence to the westernmost extremity of Shart Point; thence following the general trend of the mainland, highwater shoreline crossing the entrances of Harney River, Broad Creek, Broad River, Rodgers River, First Bay, Chatham River, Huston River to the shoreline at latitude 25°43.3′ N. longitude 81°20.8′ W.; thence to the southernmost extremity of Cape Romano.

(b) A line drawn across Big Marco Pass parallel to the general trend of the seaward, highwater shoreline.

(c) Lines drawn across Capri, Hurricane and Little Marco Passes parallel to the general trend of the seaward, highwater shoreline.

(d) A straight line drawn from Gordon Pass Light "4" through Daybeacon "5" to the shore.

(e) A line drawn across the seaward extremity of Doctors Pass Jetties.

(f) Lines drawn across Wiggins, Big Hickory, New, and Big Carlos Passes parallel to the general trend of the seaward, highwater shoreline.

(g) A straight line drawn from Sanibel Island Light through Matanzas Pass Channel Light "2" to the shore of Estero Island.

§ 7.110 Pine Island Sound, FL and Charlotte Harbor, FL.

(a) Lines drawn across Redfish and Captiva Passes parallel to the general

trend of the seaward, highwater shoreline.

(b) A line drawn from the northernmost extremity of Cayo Costa to latitude 26°39.8′ N. longitude 82°19.6′ W. (Charlotte Harbor Entrance Lighted Bell Buoy "2"); thence to Boca Grande Inner Channel Range Rear Light; thence to Port Boca Grande Light.

§ 7.115 Port Boca Grande, FL to Anna Maria Key, FL.

(a) Lines drawn across Gasparilla and Stump Passes parallel to the general trend of the seaward, highwater shoreline.

(b) A line drawn across the seaward extremity of Venice Inlet Jetties.

(c) A line drawn across Midnight Pass parallel to the general trend of the seaward, highwater shoreline.

(d) A line drawn from the westernmost extremity of Sarasota Point to the southernmost extremity of Lido Key.

(e) A line across New Pass parallel to the seaward, highwater shoreline of Longboat Key.

(f) A line drawn across Longboat Pass parallel to the seaward, highwater shoreline.

§ 7.120 Tampa Bay, FL and Tributaries.

A line drawn from the northernmost extremity of Anna Maria Key at Bean Point to latitude 27°32.5′ N. longitude 82°47.9′ W. (Southwest Channel Entrance Lighted Bell Buoy "1"); thence to latitude 27°35.8′ N. longitude 82°55.6′ W. (Tampa Bay Lighted Whistle Buoy); thence to the southernmost extremity of Long Key.

§ 7.125 St. Petersburg, FL to Rock Island, FL.

(a) A line drawn from the penthouse located in approximate position latitude 27°44.2′ N. longitude 82°45.2′ W. to latitude 27°46.2′ N. longitude 82°47.8′ W. (Johns Pass Lighted Buoy "JP"); thence to the tank located in approximate position latitude 27°48.1′ N. longitude 82°48′ W.

(b) A line drawn from the tank located in approximate position latitude 27°55′ N. longitude 82°50.5′ W. to latitude 27°58.1′ N. longitude 82°50.7′ W. (Clearwater Pass Channel Lighted Bell Buoy "1"); thence to the tank located in approximate position latitude 27°59.1′ N. longitude 82°49.6′ W.

(c) A line drawn across Dunedin and Hurricane Passes parallel with the general trend of the seaward, highwater shoreline.

(d) A line drawn from the northernmost extremity of Honeymoon Island to latitude 28°08.4′ N. longitude 82°52.0′ W. (Anclote Anchorage South Entrance Light "1"); thence to Anclote Keys Light.

(e) A line drawn from the northernmost extremity of Anclote Key to Anclote Anchorage North Entrance Light "4"; thence to the westernmost extremity of Bayonet Point at position latitude 28°19.5′ N. longitude 82°43.9′ W.

(f) A line drawn from the tank located in approximate position latitude 28°49.9′ N. longitude 82°40.1′ W. to Cross Florida Barge Canal Light "8"; thence to Northwest Channel Approach Light "2"; thence to Horseshoe Beach Channel Light "10"; thence to the westernmost extremity of Horseshoe Point.

(g) A line drawn from the westernmost extremity of Hardy Point to Steinhatchee River Light "1" (latitude 29°39.4′ N. longitude 83°27.4′ W.); thence to the westernmost extremity of Rock Point.

§ 7.130 Rock Island, FL to Cape San Blas, FL.

(a) A line drawn from Gamble Point Light to latitude 29°51.5′ N. longitude 84°10.3′ W. (Ochlockonee Shoals Lighted Bell Buoy "24"); thence to latitude 29°46.9′ N. longitude 84°20.7′ W. approximately one mile south of South Shoal Lighted Bell Buoy "26"; thence to latitude 29°44.6′ N. longitude 84°39.7′ W. (Carrabelle Channel Lighted Gong Buoy "1"); thence to the easternmost extremity of St. George Island.

§ 7.135 Cape San Blas, FL to Perdido Bay, FL.

(a) A line drawn from Cape St. George Light to Cape San Blas Light.

(b) A line drawn from St. Joseph Point on the northermost extremity of St. Joseph Spit to latitude 29°52.0′ N. longitude 85°29.5′ W. (St. Joseph Bay Lighted Whistle Buoy "SJ"); thence to the radio tower on Mexico Beach located in approximate position latitude 29°56.6′ N. longitude 85°23.9′ W.

(c) A line drawn from the westernmost extremity of Crooked Island to the easternmost extremity of Shell Island.

(d) A line drawn from the seaward end of the St. Andrew Bay entrance South Jetty to latitude 30°05.5′ N. longitude 85°46.4′ W. (St. Andrew Bay Entrance Lighted Whistle Buoy "SA"); thence to the seaward end of the St. Andrew Bay entrance North Jetty.

(e) A line drawn from the radar dome located in approximate position latitude 30°23.1′ N. longitude 86°26.9′ W. to latitude 30°22.3′ N. longitude 86°30.5′ W. (Choctawhatchee Bay Entrance Lighted Whistle Buoy "CB"); thence to the tower located in approximate position latitude 30°23.5′ N. longitude 86°33.5′ W.

(f) A line drawn from the southernmost extremity of Santa Rosa Island at longitude 87°16.0′ W. to latitude 30°16.3′ N. longitude 87°17.5′ W. (Pensacola Bay Entrance Lighted Gong Buoy "1"); thence to latitude 30°17.7′ N. longitude 87°18.7′ W. (Massachusetts Wreck Lighted Bell Buoy "WR2"); thence to Fort McRee Leading Light.

(g) A line drawn from the seaward extremity of Perdido Pass east jetty to latitude 30°15.6′ N. longitude 87°33.4′ W. (Perdido Pass Entrance Lighted Whistle Buoy "PP"); thence to the seaward extremity of Perdido Pass west jetty.

§ 7.140 Mobile Bay, AL to Mississippi Passes, LA.

(a) A line drawn from the tower located in approximate position latitude 30°15.0′ N. longitude 87°40.6′ W. to latitude 30°08.1′ N. longitude 88°03.9′ W. (Mobile Entrance Lighted Whistle Buoy "1"); thence to Ship Island Light; thence to Chandeleur Light.

(b) A curved line drawn from Chandeleur Light following the general trend of the seaward, highwater shorelines of the Chandeleur Islands to the southern extremity of the Chandeleur Islands in approximate position latitude 29°44.1′ N. longitude 88°53.1′ W.; thence to latitude 29°25.6′ N. longitude 88°59.5′ W. (Mississippi River-Gulf Outlet Lighted Bell Buoy "2"); thence to latitude 29°14.3′ N. longitude 88°57.5′ W. (Pass a Loutre North Pass Lighted Bell Buoy "2"); thence to latitude 29°09.9′ N. longitude 88°56.5′ W. (Pass a Loutre Lighted Bell Buoy "4").

§ 7.145 Mississippi Passes, LA.

A line drawn from latitude 29°09.9′ N. longitude 88°56.5′ W. (Pass a Loutre Lighted Bell Buoy "4") to latitude 28°58.7′ N. longitude 89°06.6′ W. (South Pass Lighted Whistle Buoy "2"); thence to latitude 28°52.7′ N. longitude 89°25.9′ W. (Southwest Pass Entrance Lighted Whistle Buoy "SW").

§ 7.150 Mississippi Passes, LA to Sabine Pass, TX.

(a) A line drawn from latitude 28°52.7′ N. longitude 89°25.9′ W. (Southwest Pass Entrance Lighted Whistle Buoy "SW") due west to a point 12 miles from the baseline from which the territorial sea is measured in approximate position latitude 28°52.7′ N. longitude 89°39.6′ W.; thence in a westerly direction along the 12-mile line which marks the seaward limits of the contiguous zone (as defined in 33 CFR Part 2.05–15) to latitude 29°34.5′ N. longitude 93°13.5′ W.; thence to latitude 29°34.3′ N. longitude 93°16.5′ W. (Calcasieu Channel Lighted Buoy "30"); thence to latitude 29°36.0′ N.

longitude 93°48.1′ W. (Sabine Bank Channel Lighted Bell Buoy "30").

§ 7.155 Sabine Pass, TX to Galveston, TX.

A line drawn from latitude 29°36.0′ N. longitude 93°48.1′ W. (Sabine Bank Channel Lighted Bell Buoy "30") to latitude 29°18.3′ N. longitude 94°37.6′ W. (Galveston Bay Entrance Channel Lighted Buoy "1")

§ 7.160 Galveston, TX to Rio Grande, TX.

A line drawn from latitude 29°18.3′ N. longitude 94°37.6′ W. (Galveston Bay Entrance Channel Lighted Buoy "1") to latitude 28°54.1′ N. longitude 95°15.8′ W. (Freeport Entrance Lighted Gong Buoy "1"); thence to latitude 28°23.0′ N. longitude 96°17.0′ W. (Matagorda Ship Channel Entrance Lighted Whistle Buoy "MB"); thence to latitude 27°47.6′ N. longitude 96°57.4′ W. (Aransas Pass Entrance Lighted Whistle Buoy "AP"); thence to a position approximately 10.5 miles, 90° true from the north end of Potrero Lopeno Island (latitude 27°00.1′ N. longitude 97°15.5′ W.); thence to latitude 26°03.9′ N. longitude 97°06.6′ W. (Brazos Santiago Entrance Lighted Whistle Buoy "BS"); thence to the entrance to the Rio Grande in approximate position latitude 25°57.5′ N. longitude 97°08.7′ W.

Hawaii

§ 7.165 Mamala Bay, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

Pacific Coast

§ 7.170 Santa Catalina Island, CA.

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

§ 7.175 Mexican/United States Border to Point Fermin, CA.

(a) A line drawn from the southerly tower of the Coronado Hotel in approximate position latitude 32°40.8′ N. longitude 117°10.6′ W. to latitude 32°39.1′ N. longitude 117°13.6′ W. (San Diego Bay Channel Lighted Bell Buoy "5"); thence to Point Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside Breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2". to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

§ 7.180 Point Vincente, CA to Point Conception, CA.

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to latitude 34°24.1′ N. longitude 119°40.7′ W. (Santa Barbara Harbor Lighted Bell Buoy "(1"); thence to Santa Barbara Harbor Breakwater Light.

§ 7.185 Point Conception, CA to Point Sur, CA.

(a) A line drawn from the southernmost extremity of Fossil Point at longitude 120°43.5′ W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to latitude 35°21.5′ N. longitude 120°52.3′ W. (Morro Bay Entrance Lighted Bell Buoy "1"); thence to Morro Bay West Breakwater Light.

§ 7.190 Point Sur, CA to Cape Blanco, OR.

(a) A line drawn from Monterey Harbor Light "6" to latitude 36°36.5′ N. Longitude 121°53.2′ W. (Monterey Harbor Anchorage Buoy "A"); thence to the northernmost extremity of Monterey Municipal Wharf No. 2.

(b) A line drawn from the seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the Northwestern tip of Tomales Point to latitude 38°15.1′ N. Longitude 123°00.1′ W. (Tomales Point Lighted Horn Buoy "2"); thence to latitude 38°17.2′ N. longitude 123°02.3′ W. (Bodega Harbor Approach Lighted Gong Buoy "BA"); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11′ W.

§ 7.195 Cape Blanco, OR to Cape Flattery, WA.

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to latitude 43°21.9′ N. longitude 124°21.7′ W. (Coos Bay Entrance Lighted Bell Buoy "1"); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from the lookout tower located in approximate position latitude 46°13.6′ N. longitude 124°00.7′ W. to latitude 46°12.8′ N. longitude 124°08.0′ W. (Columbia River Entrance Lighted Whistle Buoy "2"); thence to latitude 46°14.5′ N. longitude 124°09.5′ W. (Columbia River Entrance Lighted Bell Buoy "1"); thence to North Head Light.

(c) A line drawn from latitude 46°52.8′ N. longitude 124°12.6′ W. (Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2"); thence to latitude 46°55.0′ N. longitude 124°14.7′ W. (Grays Harbor Entrance Lighted Whistle Buoy "3"); thence to Grays Harbor Bar Range Rear Light.

§ 7.200 Strait of Juan de Fuca, Haro Strait and Strait of Georgia, WA.

(a) A line drawn from the northernmost point of Angeles Point to latitude 48°21.1′ N. longitude 123°02.5′ W. (Hein Bank Lighted Bell Buoy); thence to latitude 48°25.5′ N. longitude 122°58.5′ W. (Salmon Bank Lighted Gong Buoy "3"); thence to cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Light on Stuart Island; thence to Skipjack Island Light; thence to latitude 48°46.6′ N. Longitude 122°53.4′ W. (Clements Reef Buoy "2"); thence to

International Boundary Range B Front Light.

Alaska

§ 7.205 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.

(a) A line drawn from the northeastermost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garret Point, Kanagunut Island; thence to Lord Rock Light; thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Bartolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

§ 7.210 Cape Spencer, AK to Cape St. Elias, AK.

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituya Bay.

(b) A line drawn from Ocean Cape Light to latitude 59°31.9′ N. longitude 139°57.1′ W. (Yakutat Bay Entrance Lighted Whistle Buoy "2"); thence to the southeastermost extremity of Point Manby.

(c) A line drawn from the northermost extremity of Point Riou to the easternmost extremity of Icy Cape.

§ 7.215 Point Whitshed, AK to Aialik Cape, AK.

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southernmost extremity of Cape Resurrection to the Aialik Cape.

§ 7.220 Kenai Peninsula, AK to Kodiak Island, AK.

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0′ W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of Long Island; thence to the northeasternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7′ N to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

§ 7.225 Alaska Peninsula, AK to Aleutian Islands, AK.

(a) A line drawn from the southernmost extremity of Cape Kumhun to the westernmost extremity of Nakchamik Island; thence to the eastmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay Enterance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moeller.

§ 7.230 Alaskan Peninsula, AK to Nunivak, AK.

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenman.

(c) A line drawn from the church spire located in approximate position latitude 59°45′ N. longitude 161°55′ W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

§ 7.235 Kotzebue Sound, AK.

A line drawn from Cape Espenberg Light to Sheshalik Spit.

Dated: August 12, 1983.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-25199 Filed 9-14-83; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-950; RM-4479]

FM Broadcast Station in Warren, Vermont; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 285A to Warren, Vermont, at that community's first FM assignment, in response to a petition filed by John L. Eddy.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Warren, Vermont), MM Docket No. 83-950, RM-4479.

Adopted: August 23, 1983.
Released: September 8, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed May 23, 1983, by John L. Eddy ("petitioner") proposing the assignment of Channel 285A to Warren, Vermont, as that community's first FM assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned.

2. A site restriction of 1.2 miles south of Warren is required to avoid short-spacing to unused Channel 285A in Granby, Quebec (Canada).

3. Petitioner noted that there could be a possible short-spacing conflict with Docket No. 83-357 in which Channel 287 was proposed for assignment to Killington, Vermont, as a Class B channel. Since Killington is located near the boundary for Zone II where Class C channels are permitted, the use of Channel 287 as a Class C assignment would create a short-spacing with petitioner's proposal for Warren. However, the Commission has indicated in the Killington proceeding that the

proposal is for Class B assignment. The interest expressed by petitioner in Docket No. 83-357 to seek a waiver and locate in Zone II as a Class B station would not be an obstacle to this assignment.

4. Since the proposed assignment to Warren, Vermont, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the concurrence of the Canadian government must be obtained.

5. In view of the fact that the proposed assignment could provide a first local broadcast service to Warren, Vermont, 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
Warren, Vermont		285A

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 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner(s) of this proceeding: John L. Eddy, P.O. Box 437, Warren, Vermont 05674.

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 §§ 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, Mass Media Bureau, (202) 634-6530. 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, Mass Media 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 § § 0.61, 0.204(b) and 0.283 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 § 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 §§ 1.145 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, NW., Washington, D.C.

[FR Doc. 83-25135 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-948; RM-4489]

FM Broadcast Stations in Keyser, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 296A to Keyser, West Virginia, as that community's second FM assignment, in response to a petition filed by Anna Louise Newman.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Keyser, West Virginia), MM Docket No. 83–948, RM–4498.

Adopted: August 23, 1983.

Released: September 6, 1983.

By the Chief, Policy and Rules Divisions.

1. The Commission has under consideration a petition for rule making filed on June 3, 1983, by Anne Louise Newman ("petitioner") proposing the assignment of Channel 296A to Keyser, West Virginia, as that community's second FM assignment. Petitioner submitted information in support of the proposal and expressed her intention to file 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 a second local broadcast service to Keyser, West Virginia, 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
Keyser, West Virginia	231	231, 269A.

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 incorprated 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 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Harry G. Sells, Esq., 10401 Georgetown Pike, Great Falls, Virginia 22066, Counsel for Anna Louise Newman.

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 TV 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.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that form 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, Mass Media 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 § 0.61, 0.204(b) and 0.283 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 wil 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 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 accompained 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, N.W., Washington, D.C.

[FR Doc. 83–25133 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[Docket No. 83-947; RM-4489]

FM Broadcast Station in Buckhannon, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a second FM assignment to Buckhannon, West Virginia, in response to a petition filed by Terry D. and Laura W. Reed.

DATES: Comments must be filed on or before October 24, 1983, and reply comments on or before November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Station (Buckhannon, West Virginia), MM Docket No. 83-947 RM-4489.

Adopted: August 23, 1983.

Released: September 8, 1983.

By the Chief, Policy and Rules Division.

1. Terry D. and Laura W. Reed ("petitioners") submitted a petition for rule making on June 3, 1983, which seeks the assignment of Class B Channel 267 to Buckhannon, West Virginia, as its second FM assignment. The petitioners stated their intention to apply for the channel, if assigned.

2. In an effort to demonstrate a need for the requested assignment, the petitioners submitted population and community data. In view of the action taken in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), these issues are no longer relevant to this type of proceeding.

3. We have determined that Channel 267 can be assigned to Buckhannon in conformity with the minimum distance separation requirements, provided the transmitter site is locatd 1.3 miles south of the city. This restriction is necessary to avoid short spacing to Station WPIT-FM (Channel 268), Pittsburgh, Pennsylvania.

4. In view of the fact that the proposal could provide a second local broadcast service to Buckhannon, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Buckhannon, West Virginia	228A	225A, 267

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 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner(s) of this proceeding: Terry D. and Laura Reed, 23 West Main Street, Buckhannon, West Virginia 26201.

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, § 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.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. 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* contracts 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. 514, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media 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 §§ 0.61, 0.204(b) and 0.283 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 procedure 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 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 Public Reference Room at its headquarters, 1919 M Street, N.W. Washington, D.C.

[FR Doc. 83-25132 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-946; RM-4477]

TV Broadcast Station in Hendersonville, Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF TV Channel 50 to Hendersonville, Tennessee, in response to a petition filed by Sumner County Broadcasting Company. The Assignment could provide Hendersonville with its first television assignment.

DATES: Comments must be filed on or before October 24, 1983, and reply comments must be filed on or before November 8, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Hendersonville, Tennessee), MM Docket No. 83-946 RM-4477.

Adopted: August 23, 1983.

Released: September 8, 1983

By the Chief, Policy and Rules Division.

1. Sumner County Broadcasting Company has filed a petition for rule making seeking the assignment of UHF Television Channel 50 to Hendersonville, Tennessee, as that community's first television assignment. Petitioner indicates that it will apply for the channel, if assigned.

2. Hendersonville (population 26,561),[1] in Sumner County (population 85,790), is located in north central Tennessee, approximately 16 kilometers (10 miles) northeast of Nashville.

3. We believe the petitioner's proposal warrants consideration. The channel can be assigned consistent with the minimum distance separation requirements of § 73.610 of the Commission's Rules, provided the transmitter is located 6.5 miles northeast of the community to avoid short-spacing to unused Channel 42 and proposed Channel 58 in Nashville, Tennessee (MM Dkt. No. 83-470).

4. In view of the foregoing, and the fact that the proposed television assignment could provide a first television broadcast service to Hendersonville, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Hendersonville, Tennessee		50

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 24, 1983, and reply comments on or before November 8, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows: Sumner County Broadcasting Company, Highway 109N, Gallatin, Tennessee 37066 (Petitioner); Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant to Petitioner).

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 Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. 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, Mass Media 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 §§ 0.61, 0.204(b) and 0.283 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.

[1] Population figures were taken from the 1980 U.S. Census, Advance Reports.

(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 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 Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-25131 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte 447]

Petition To Delay Application of Direct Connector Requirement to Joint Rail Rates in General Increases

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: By petition filed June 13, 1983, several railroads and the American Short Line Railroad Association seek a delay in application of the so-called "direct connector" requirement to joint rail rates in general rate increases or broad tariff changes for 3 years beyond the otherwise statutorily mandated effective date of January 1, 1984, pursuant to 49 U.S.C. 10706(a)(3)(B). Petitioners claim that the "direct connector" requirement to joint rail rates involved in general rate increases or broad tariff changes to cover inflationary cost increases cannot feasibly be implemented at this time, would impede efforts to reach revenue adequacy, and should be delayed for a period of 3 years from January 1, 1984. Under 49 U.S.C. 10706(a)(3)(B) (i) and (ii) delay or suspension is authorized if the Commission finds that implementation of the "direct connector" requirement is not feasible. The Commission seeks comments on the petition, whether it is not feasible to implement the direct connector standard as scheduled, and whether modifications to 49 CFR 1135 are needed.

DATES: An original and 10 copies of comments should be filed by October 17, 1983.

ADDRESS: A copy of the petition may be inspected at the Office of the Secretary, Interstate Commerce Commission, in Washington, D.C. Copies of the petition may also be obtained from petitioners' counsel: R.E. Weicher, Esq., 80 East Jackson Boulevard, Chicago, IL 60604.

Comments referring to Ex Parte No. 447 should be addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

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

It does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources. Furthermore, any delay in the application of the direct connector requirement to joint rail rates in general increases or broad tariff changes would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, because it would maintain the status quo for a specific additional period and would not impose any new or other requirements directly or indirectly on small entities. Comments may also be directed to these matters.

(49 U.S.C. 10321 and 10706; 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Decided: September 7, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25140 Filed 9-14-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30706-124]

Foreign Fishing; Retention Allowance

Correction

In FR Doc. 83-18846, beginning on page 32036 in the issue of Wednesday, July 13, 1983, make the following correction.

On page 32037, third column, fourth line of the first complete paragraph, "1983" should read "1982".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan; Los Padres National Forest, Monterey, San Luis Obispo, Santa Barbara, Ventura, Kern, and Los Angeles Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service, issued a national environmental impact statement in January, 1979. This environmental impact statement documented the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million acre National Forest system. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for Wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with over 6 million acres located in California only. About 983,000 acres were recommended for Wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for non-Wilderness.

In 1979 the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to manage 46 acres in California for other than Wilderness. In October, 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. The decision applied specifically to the 46 roadless acres in California, and sets a binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982, court decision, National Forest roadless areas studied for Wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow evaluation of RARE II Wilderness and non-Wilderness areas during the Forest planning process.

Therefore, the reevaluation of roadless areas within Los Padres National Forest will include not only further planning areas but also Wilderness and non-Wilderness. This will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will continue to be protected in areas recommended in RARE II for Wilderness and further planning, and management for other uses will continue in areas recommended for non-Wilderness.

Within Los Padres National Forest, 3 roadless areas containing 78,050 acres were recommended for Wilderness and 12 roadless areas of 163,000 acres (including the White Ledge Roadless Area mentioned in the State suit) were recommended for non-Wilderness. These 15 areas will be reevaluated in addition to the further planning areas already being evaluated. These 15 areas are:

No.	Name	Gross acres	Net acres	RARE II allocation
105	Chalk Peak	8,300	8,300	Non-wilderness.
106	Silver Peak	14,600	14,600	Do.
121	Santa Cruz	21,100	20,900	Do.
122	Condor Point.	13,800	13,800	Do.
123	Camuesa	7,200	7,200	Do.
124A	Madulce-Buckhorn.	73,400	73,100	Proposed wilderness.
124B	Madulce-Buckhorn.	14,000	14,000	Non-wilderness.
125	Muno	29,200	29,000	Do.
128	Juncal	11,500	11,500	Do.
130	White Ledge.	18,700	18,500	Do.
132	Nordhoff	11,400	11,400	Do.
279	De La Guerra.	5,400	5,100	Do.
277	Church Creek.	2,750	2,750	Proposed wilderness.
119	Manzana	1,900	1,900	Do.
263	Toquipis	8,100	7,900	Non-wilderness.

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be open house to explain, discuss, and gather information about the roadless areas and the reevaluation process at the following dates and places:

October 24th—Ventura County, Ventura City Hall Annex, 5th Floor, Old Board of Supervisors Room, 501 Poli Street, Ventura, CA

October 25th—San Luis Obispo County, Discovery Inn, 1800 Monterey Street, San Luis Obispo, CA

October 26th—Monterey County, Gabilan Room, Community Center Building, 940 N. Main, Salinas, CA

Octoer 27th—Santa Barbara County, Fleishmann Auditorium, Museum of Natural History, 2559 Puesto Del Sol Road, Santa Barbara, CA

All meetings will begin at 7:30 p.m.

Zane G. Smith, Regional Forester, is the responsible official.

For further information about the proposed reevaluation, contact: Gerald H. Little, Los Padres National Forest, 42 Aero Camino, Goleta, CA 93117, (805) 968-1578.

Dated: September 6, 1983.

Frederik G. deHoll,

Forest Supervisor, Los Padres National Forest.

[FR Doc. 83-25174 Filed 9-14-83; 8:45 am]
BILLING CODE 3410-11-M

Land and Resource Management Plan; Tahoe National Forest, Nevada, Placer, Plumas, Sierra, and Yuba Counties, California; Intent to Reevaluate Roadless Areas

In January 1979, the Forest Service issued a national environmental impact statement documenting the results of a review of 62 million acres of roadless and undeveloped areas within the 190 million-acre National Forest System. The purpose of the roadless area review and evaluation (RARE II) was to determine which areas were suitable for wilderness and which should be used for other purposes.

In the Pacific Southwest Region, RARE II dealt with over 6 million acres located only in California. About 983,000 acres were recommended for wilderness; 2,643,000 acres were recommended for further planning; and 2,395,000 acres were recommended for nonwilderness.

In 1979, the State of California challenged the adequacy of the National RARE II Environmental Impact Statement as the basis for decisions to

manage 46 areas in California for other than wilderness. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision that the RARE II Environmental Impact Statement was inadequate. Although the decision applied specifically to only the 46 roadless areas in California, it sets binding precedent in any Federal District Court in the Ninth Circuit.

Because of the October 1982 court decision, National Forest roadless areas studied for wilderness potential during RARE II will be reevaluated. This Notice is being issued because, contrary to earlier regulations (issued 9/30/82), a proposed revision to 36 CFR 219.17 (issued 4/18/83) will allow further evaluation of RARE II wilderness and nonwilderness areas during the Forest planning process.

The reevaluation of areas on the Tahoe National Forest will be done as part of the Forest's land and resource management plan.

During the reevaluation process, current management and protection policies and activities in the roadless areas will be continued. Wilderness values will be protected in areas recommended in RARE II for wilderness. Management for other uses will continue in areas recommended for nonwilderness in RARE II or the Unit Planning process only if the uses are already ongoing, scheduled, or authorized under existing multiple-use, unit, or resource plans. This reevaluation does not affect areas recommended for further planning in RARE II.

On the Tahoe National Forest, no roadless areas were recommended for wilderness and six roadless areas of 45,557 acres were recommended for other than wilderness. These areas will now be reevaluated. They include:

Name	Gross acres	Net national forest acres
Bald Mountain	6,453	6,253
Duncan	9,403	8,703
Grouse Lakes	20,996	10,096
North Fork Middle Fork American River	11,153	10,653
Castle Peak	17,253	9,301
Lakes	551	551

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals on the Forest mailing list and to other individuals and organizations requesting a copy. In addition, there will be an open house held November 1, 1983, at 7:30 p.m. at the Forest Supervisor's Office, Highway 49 and Coyote Street, Nevada City, California 95959, to further explain, discuss, and gather information about the roadless areas and the reevaluation process.

For a copy of detailed information on the roadless areas to be reevaluated on the Tahoe National Forest, and for further information, contact: George Cadzow, Resource Planning Officer, Tahoe National Forest at the above address or call (916) 265-4531.

Dated: September 8, 1983.

Robert G. Lancaster,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 83-25172 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Christian Family Center, Inc., Critical Area Treatment RC&D Measure, Georgia; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273.

Notice

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Christian Family Center, Inc., Critical Area Treatment RC&D Measure, Treutlen County, Georgia.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the treatment of critically eroding areas. The planned works as described in the Finding of No Significant Impact consist of the establishment of erosion control vegetation, waterways, and diversions on 24 acres.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Dwight M. Treadway, State Conservationist, Soil Conservation Service, Federal Building, 355 East Hancock Avenue, Athens, Georgia 30613, telephone 404-546-2273. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken untill 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 7, 1983.

Edgar L. Helmey,

Deputy State Conservationist.

[FR Doc. 83-25099 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-6-M

Old Cahawba Recreation Park RC&D Measure, Alabama; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Old Cahawba Recreation Park RC&D Measure, Dallas County, Alabama.

FOR FURTHER INFORMATION CONTACT: Ernest V. Todd, State Conservationist, Soil Conservation Service, 665 Opelika Road, Auburn, Alabama, 36830, telephone (205) 821-8070.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ernest V. Todd, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation facilities at the junction of the Cahaba and Alabama Rivers. The planned works of improvement include picnic tables, grills and benches, a picnic shelter, a boat ramp, trash receptacles, security lights, waterpoints, a water well, comfort station, and a parking area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ernest V. Todd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 2, 1983.

Ernest V. Todd,

State Conservationist.

[FR Doc. 83-25098 Filed 9-14-83; 8:45 am]

BILLING CODE 3410-16-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Cancellation of Meeting

The meeting of the General Advisory Committee on Arms Control and Disarmament scheduled for September 15 and 16, 1983, which was announced in the **Federal Register** of August 31, 1983 (48 FR 39483), has been cancelled. Notice of this change could not be published at least 15 days before the date of the meeting because the decision to cancel the meeting occurred too late to permit such notice.

John E. Grassle,

Committee Management Officer.

September 12, 1983.

[FR Doc. 83-25307 Filed 9-14-83; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Information Collections by the Office of Management and Budget Under the Paperwork Reduction Act

On September 1, 1983, the Office of Management and Budget approved the extension of the following information collection:

Information collection contained in evidence requests which the Board attaches to Board orders that solicit proposals from carriers interested in providing essential air service for compensation under Section 419 of the Federal Aviation Act—extended to September 30, 1986, under OMB No. 3024-0042.

Dated: September 8, 1983.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-25062 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41441]

Denham Aircraft Services Corp. II Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on September 27, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., September 9, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-25275 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41414]

Northern Air Lines, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, scheduled to be held on September 14, 1983, is postponed to October 25, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., September 9, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-25276 Filed 9-14-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-067]

Carbon Steel Plate From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on carbon steel plate from Japan. The review covers the 10 known third-country resellers of this merchandise to the United States, generally for two consecutive periods from July 1, 1977 through March 31, 1982. The review indicates the existence of dumping margins in particular periods for certain firms.

As a result of the review the Department has preliminarily determined to assess dumping duties for individual firms equal to the calculated differences between United States price and foreign market value on each of the sales during the periods of review.

Where company-supplied information was inadequate or no information was received, the Department has used the best information available.

The Department has also tentatively determined to revoke the finding with respect to one firm, A. J. Forsyth & Company, Ltd.

Interested parties are invited to comment on these results and tentative determination to revoke in part.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 47804) the final results of its last administrative review of the antidumping finding on carbon steel plate from Japan (43 FR 22937, May 30, 1978) and announced its intent to conduct the next administrative review by the end of May 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of hot-rolled carbon steel plate, 0.1875 inch or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad and not pressed or stamped to non-rectangular shape. Carbon steel plate is currently classifiable under item 607.6615 of the Tariff Schedules of the United States Annotated.

The review covers the 10 known third-country (Canada) resellers of Japanese carbon steel plate to the United States, generally for two consecutive periods from July 1, 1977 through March 31, 1982.

Three of the resellers did not export to the United States during the more recent review period. For these three firms, the estimated antidumping duty cash deposit rates will be the most recent information for each firm. Three firms failed to respond to our questionnaire or provided inadequate responses for one or both of the periods. For these non-responsive firms we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. Since there are no prior rates for these firms, the best information available is the highest rate found during the original fair value investigation.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, as appropriate. Purchase price was based on the Canadian FOB or delivered price to an unrelated purchaser in the United States. Where applicable, adjustments were made for U.S. and Canadian inland freight, U.S. duty and brokerage fees, drawback of Canadian import duty, and commissions to unrelated parties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, since there is no evidence that the Japanese manufacturers intended to export these shipments to the U.S., the Department used the third-country resellers' home market prices for such or similar merchandise, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act, as appropriate. Foreign market value was based on the Canadian ex-factory, FOB, or delivered price, with adjustments, where applicable, for Canadian inland freight, discounts, terminal charges, insurance, commissions to unrelated parties, and differences in the merchandise in accordance with §§ 353.15 and 353.16 of the Commerce Regulations and §§ 153.10 and 153.11 of the Customs Service Regulations. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Third-country reseller	Time period	Margin (percent)
A.J. Forsyth & Co. Ltd	7/1/77-3/31/82	
Balfour Guthrie (Canada) Ltd	7/1/77-3/31/81	13.0
	4/1/81-3/31/82	
Bridge and Tank Canada	7/1/77-3/31/81	
	4/1/81-3/31/82	(1)
Chatham Steel Ltd	7/1/77-3/31/81	
	4/1/81-3/31/82	8.67
Calkins and Burke Ltd	4/1/80-3/31/81	5.5
	4/1/81-3/31/82	4.15
Ennisteel Service Center	11/1/77-3/31/82	13.0
Lambton Steel Ltd	7/1/77-3/31/81	
	4/1/81-3/31/82	(1)
Newman Steel Ltd	4/1/81-3/31/82	4.6
Ontario Hydro	4/1/78-3/31/79	12.0
	4/1/79-3/31/80	
	4/1/80-3/31/82	(1)
Tideco Industries	4/1/79-3/31/82	13.0

[1] No shipments during the period.

The Department has also concluded that all sales of Japanese carbon steel plate by A. J. Forsyth were made at not less than fair value since July 1, 1977. As provided for in § 353.54(e) of the Commerce Regulations, A. J. Forsyth has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding as an order if circumstances develop which indicate that Japanese carbon steel plate exported to the United States by A. J. Forsyth is being sold at less than fair value.

Therefore, we tentatively determine to revoke the finding on Japanese carbon steel plate with respect to A. J. Forsyth. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise exported by A. J. Forsyth entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the more recent of the above margins shall be required on all shipments of Japanese carbon steel plate from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and § 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 7, 1983.

[FR Doc. 83-25205 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-016]

Ferrite Cores (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan. The review covers the 14 known manufacturers and/or exporters of this merchandise to the United States and generally the period March 1, 1981 through February 28, 1982. The review indicates the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during their individual periods of review. Where company-supplied information was inadequate or no information was received, we used the best information available for assessment and estimated antidumping duty cash deposit purposes.

The Department has also tentatively determined to revoke the finding with respect to merchandise manufactured and exported by TDK Electronics Co., Ltd. and with respect to merchandise manufactured and exported by Mitsubishi Electric Co., Ltd.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3003/5496.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 13470) the final results of its last administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan (36 FR 4877, March 13, 1971) and announced its intent to conduct the next administrative review as soon as possible. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are magnetically soft ferrite magnets which are usually wound with wire. The merchandise is magnetized with the induction of electric current and is of the type commonly used as components in consumer electronic products such as household television receivers, projection television sets, radios, stereos and high fidelity radio systems, automobile radios, electronic home computers, etc. Such ferrite cores are currently classifiable under item 535.1240 of the Tariff Schedules of the United States Annotated.

The review covers the 14 known manufacturers and/or exporters of Japanese ferrite cores to the United States and generally the period March 1, 1981 through February 28, 1982.

Three firms did not export Japanese ferrite cores to the U.S. during the review period. The estimated antidumping duty cash deposit rates for these firms will be the most recent rate for each firm. Three firms, A & A Japan, Ltd., Tomita Electric Co., Ltd., and Taiyo Yuden Co., Ltd., failed to respond to our questionnaire or provided inadequate responses. For these non-responsive firms we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the most recent rate for each firm or the highest fair value rate.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. or c.i.f. packed price to unrelated purchasers in the United States, unrelated Japanese trading companies, or unrelated Japanese original equipment manufacturers, as appropriate. Where applicable, we made deductions for U.S. and foreign inland freight, ocean freight, marine insurance, and brokerage charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered price with adjustments for inland freight and differences in the packing costs, where applicable. We made adjustments for differences in the physical characteristics of the merchandise, where applicable, in accordance with § 353.16 of the Commerce Regulations. We did not allow claims for credit costs and sales promotion expenses. There was no difference between the credit costs for the U.S. and Japanese markets, and the sales promotion expenses were not directly related to future sales. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our comparision of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer exporter	Time period	Margin (percent)
TDK Electronics Co., Ltd	3/1/81-2/28/82	.....
TKD/Sanyo Electric Trading Co., Ltd	3/1/81-2/28/82	.....
TDK/Matsushita Electric Trading Co., Ltd	3/1/81-2/28/82	0.17
TDK/Sony Corporation	3/1/80-2/28/81	.....
	3/1/81-2/28/82	.....
TDK/A & A Japan, Ltd	3/1/81-2/28/82	40.2
Mitsubishi Electric Co	3/1/81-2/28/82	0.03
Mitsubishi Electric/Sanyo Electric Trading Co., Ltd	3/1/81-2/28/82	(1)
Nippon Ferrite, Ltd	3/1/80-2/28/81	0.94
	3/1/81-2/28/82	0.21
Nippon Ferrite/Nissei Sangyo, Ltd	3/1/80-2/28/81	(1)
	3/1/81-2/28/82	(1)
Nippon Ferrite/Sanwa Musen Co., Ltd	3/1/80-2/28/81	.....
	3/1/81-2/28/82	.....
Nippon Ferrite/ Hasegawa Limited	3/1/80-2/28/81	.....
	3/1/81-2/28/82	.....
Tomita Electric Co., Ltd	3/1/81-2/28/82	28.0
Taiyo Yuden Co., Ltd	3/1/81-2/28/82	28.0
Tohoku Metal Industries	3/1/81-2/28/82	[1] 28.0
Fuji Electrochemical Co., Ltd	3/1/81-2/28/82	[1] 28.0

[1] No shipments during the period.

The Department has concluded that all sales of merchandise manufactured and exported by TDK Electronics Co., Ltd. were made at not less than fair value for the period March 1, 1980 through February 28, 1982. Further, all sales of merchandise manufactured and exported by Mitsubishi Electric Co., Ltd. were made at not less than fair value or had *de minimis* Margins for the period April 1, 1979 through February 28, 1982. As provided for in § 353.54(e) of the Commerce Regulations, both firms have agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate

that ferrite cores (of the type used in consumer electronic products) produced and exported by TDK or Mitsubishi are being sold to the United States by TDK or Mitsubishi at less than fair value.

Therefore, we tentatively determine to revoke the finding on ferrite cores (of the type used in consumer electronic products) from Japan with respect to merchandise produced and exported by TDK Electronics Co., Ltd., and with respect to merchandise produced and exported by Mitsubishi Electric Co., Ltd. If this partial revocation is made final it will apply to entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese ferrite cores (of the type used in consumer electronic products) by these firms entered, or withdrawn from warehouse, for consumption or or after the date of publication of the final results. The Department shall waive the cash deposit requirement for Nippon Ferrite, Ltd., TDK/Matsushita Electric Trading Co., Ltd., and Mitsubishi Electric Co., Ltd., since the margins for these firms are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes. No cash deposit of estimated antidumping duties shall be required on future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after February 28, 1982 and who is unrelated to any reviewed firm. These cash deposit requirements and waivers shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1) and (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 8, 1983.

[FR Doc. 83-25204 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-005]

High Power Microwave Amplifiers and Components Thereof From Japan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on high power microwave amplifiers and components thereof from Japan. The review covers the one known exporter of this merchandise to the United States, NEC Corporation (formerly known as Nippon Electric Co., Ltd.), and the period September 1, 1981 through June 30, 1982. The review indicates the existence of no dumping margins for the period.

As a result of the review, the Department has preliminarily determined not to assess dumping duties on entries with purchase dates during the period of review nor to require cash deposits of estimated antidumping duties on future entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Wright or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 31413-4) an antidumping duty order on high power microwave amplifiers and components thereof from Japan and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of high power microwave amplifiers and components thereof. High power microwave amplifiers are radio-frequency power amplifier assemblies and components thereof, specifically designed for uplink transmission in the C, X, and Ku bands from fixed earth stations to communications satellites and having a power output of one kilowatt or more. High power microwave amplifiers may be imported in subassembly form, as complete amplifiers, or as a component of higher level assemblies (generally earth stations). This merchandise is currently classifiable under item 685.29 of the Tariff Schedules of the United States.

The review covers the one known exporter of Japanese high power microwave amplifiers and components thereof to the United States, NEC Corporation, and the period September 1, 1981 through June 30, 1982. During the period NEC Corporation shipped only components.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the f.o.b. Japan price with deductions, where applicable, for Japanese inland freight and f.o.b. charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used constructed value, as defined in section 773(e) of the Tariff Act, since there were so sales in the home market or to purchasers in third countries during the period of review. Constructed value was calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for the period September 1, 1981 through June 30, 1982.

Interested parties may submit written comments on these preliminary results

within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on shipments with purchase dates during the period of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on shipments of Japanese high power microwave amplifiers and components thereof entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 8, 1983.

[FR Doc. 83-25203 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[A-427-001]

Sorbitol From France; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on sorbitol from France. The review covers the one known exporter of this merchandise to the United States and the period October 1, 1981 through May 31, 1982. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each shipment during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 153291-2) an antidumping duty order on sorbital from France and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of sorbitol. Sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is commercially available in two forms: (1) Crystalline sorbitol, used in the production of sugarless gum, candy, groceries, and pharmaceuticals, and (2) liquid sorbitol, used in cosmetics and toiletries (such as toothpaste). Sorbitol is currently classifiable under item 493.6820 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French sorbitol to the United States, Roquette Freres, and the period October 1, 1981 through May 31, 1982.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the duty-paid delivered price with deductions, where applicable, for U.S. and foreign inland freight, ocean freight, marine insurance, U.S. import duties, brokerage, commissions to unrelated parties, and freight forwarding. A claimed addition for an "export restitution payment" (Roquette Freres refers to it as an "import levy refund") was not allowed because the Department determined that it was not a rebate of an import levy imposed by the EC on corn which had been rebated by reason of the exportation of sorbitol to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the delivered price with adjustments, where applicable, for credit cost differences, inland freight, rebates and indirect selling expenses to offset commissions to unrelated parties. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period October 1, 1981 through May 31, 1982:

Exporter	Margin (percent)
Roquette Freres:	
Crystalline Sorbitol	3.69
Liquid Sorbitol	18.82

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the period. Individual differences between United States price and foreign market value may vary from the percentages stated below. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of French sorbitol entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and § 353.53 of the Commerce Regulations (19 CFR 353.53).

September 9, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-25206 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held October 12, 1983 at 1:30 p.m., Herbert C. Hoover Building, Room 4830, Washington, D.C. 20230. The Committee provides advice about ways to promote increased exports of U.S. textiles and apparel. Agenda: Review of export data; report on conditions in the export market; recent foreign restrictions affecting textiles; export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact Helen L. LeGrande (202) 377-3737.

Dated: September 9, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-25144 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Minority Business Development Center Program Projects; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate four projects for a 12 month period in the following locations:

San Francisco SMSA—I.D. Number 09-10-84006-01:

Maximum MBDA Contribution	$595,000
SCS Contribution	59,500
Total Federal Contribution	654,500
Minimum Cost Sharing Contribution	115,500
Minimum Total Project Cost	770,000

Start Date—January 1, 1984.

Oxnard SMSA—I. D. Number 09-10-84004-01:

Maximum MBDA Contribution	$212,500
SCS Contribution	21,250
Total Federal Contribution	233,750
Minimum Cost Sharing Contribution	41,250
Minimum Total Project Cost	275,000

Start Date—February 1, 1984.

Santa Barbara SMSA—I. D. Number 09-10-84005-01:

Maximum MBDA Contribution	$144,500
SCS Contribution	14,450
Total Federal Contribution	158,950
Minimum Cost Sharing Contribution	28,050
Minimum Total Project Cost	187,000

Start Date—February 1, 1984.

Vallejo SMSA—I. D. Number 09-10-84002-01:

Maximum MBDA Contribution	$144,500
SCS Contribution	14,450
Total Federal Contribution	158,950
Minimum Cost Sharing Contribution	28,050
Minimum Total Project Cost	187,000

Start Date—February 1, 1984.

Applicants shall be required to contribute at least 15 percent of the total program cost through Non-Federal Funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: October 21, 1983.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Partee at 415/556-6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MDBA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreeements with an aency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.
—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standard involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of theWork Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 15% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other Non-Federal sources, i.e., public agencies and institutions, private organizaitons, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other Non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total Non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All Information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A-95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the following address and time:

San Franciso

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13029, San Francisco, California 94102, September 30, 1983 at 9:00 a.m.

Los Angeles

Minority Business Dev. Agency, U.S. Department of Commerce, 2500 Wilshire Blvd., Room 908, Los Angeles, California 90057, September 30, 1983 at 11:00 a.m.

11.800 Minority Business Development—Catalog of Federal Domestic Assistance.

Dated: September 8, 1983.

Powell McDaniel,

Acting Regional Director.

[FR Doc. 83-25100 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

[Docket No. 30812-160]

Proposed Federal Information Processing Standard for Representation of Geographic Point Locations for Information Interchange

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. A revised Federal Information Processing Standard is being proposed as a Federal General Data Element and Representation Standard for Federal use. The proposed revision will supersede FIPS 70, Representation of Geographic Point Locations for Information Interchange. The proposed revision provides extensions to FIPS 70 that have been coordinated and endorsed by the Data Standards Committee of the U.S. Geological Survey and the Earth Sciences Data Standards Council of the Department of the Interior.

The proposed Federal Information Processing Standard (FIPS) contains two parts: (1) An announcement part which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) the specifications part. Only the announcement is provided in this notice.

Interested parties may obtain copies of the specifications from and submit comments in writing to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: Proposed FIPS for Geographic Point Locations. To be considered, comments on this proposed standard must be received on or before December 14, 1983.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Persons desiring further information about the proposed FIPS for Geographic Point Locations may contact Mr. Roy G. Saltman, Data Element and Representation Standards Program, Data Management and Programming Language Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301-921-3491.

Dated: September 9, 1983.

John W. Lyons,

Acting Director.

Federal Information Processing Standards Publication 70-1; (Year) (Month) (Day)

Announcing the Standard for Presentation of Geographic Point Locations for Information Interchange

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315), dated May 11, 1973, and Part 6 of Title 15 Code of Federal Regulations.

1. Name of Standard. Representation of Geographic Point Locations for Information Interchange.

2. Category of Standard. Federal General Data Standard, Representations and Codes.

3. Explanation. This standard establishes uniform formats for geographic point location data. Geographic point location refers to the use of the coordinate system to define the positon of a point that may be on, above, or below the earth's surface. It provides a means for representing these data in digital form for the purpose of interchanging information among data systems and improving clarity and accuracy of inter-personal communications.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of the Interior, Geological Survey, (National Mapping Division).

6. Cross Index. American National Standard x3.61-1978, Representation of Geographic Point Locations for Information Interchange.

7. Applicability. This Federal general data element and representation standard is made available for data interchange among executive departments and independent agencies and for Federal data interchange with the non-Federal sector including industry, State, local, and other Governments and with the public at large.

This standard does not apply to applications covered by non-conforming international ageements established under the aegis of the World Meteorological Organization or the North Atlantic Treaty Organization. This standard does not address many other geographic coordinate systems and vertical control datums utilized by the U.S. Deparment of Defense in military applications. Such applications are excluded from the provisions of the standard. This standard applies only to uniquely identified locations. The standard does not apply to a series of coordinates, at small intervals, such a linear map features, terrain profiles, or elevation models.

8. Specifications. The specifications are affixed. This standard is a revision of Federal Information Processing Standard 70 (FIPS PUB 70) and is intended for the replacement of FIPS PUB 70 in its entirety.

FIPS PUB 70, except as noted therein, was materially identical to American National Standard x3.61-1978, Representations of Geographic Point Locations for Information Interchange, copyright 1978 by the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018, reprinted with permission.

This standard differs from FIPS PUB 70 in minor textual modifications made for the purpose of clarity and in the following:

(1) The representation of latitude and longitude using radian measure was added.

(2) Alternate 2 for representation of hemispheric information was deleted.

(3) The use of maximum precision for all numerical values was emphasized. The alternate representation of precision was deleted.

(4) The number of characters used for the zone representation for State Plane Coordinate Systems was standardized.

(5) The term "altitude" was substituted for "elevation" throughout to conform with international usage.

(6) The specifications for altitude data were expanded and upgraded to the same level of detail as specifications for horizontal coordinates.

(7) A table was added delineating the coverage of Universal Transverse Mercator zones and the longitudes of the central meridians; other tables were renumbered.

(8) The total length of the representation of point location data at maximum precision was standardized, regardless of system used.

9. Implementation Schedule. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

10. Where to Obtain Copies and Information. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication 70-1 (FIPS PUB 70-1) and title. When microfiche is desired, this should be specified.

A list of all published Federal Information Processing Standards and current prices may be obtained from the Standards Processing Coordinator (ADP), Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Inquires concerning the FIPS data element standards program may be directed to the program Manager, Data Element and Representation Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; telephone (301) 921-3491.

[FR Doc. 83-25102 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-13-M

National Voluntary Laboratory Accreditation Program; Freshly Mixed Field Concrete

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for August 1983.

The National Bureau of Standards announces the following laboratory accreditation actions for August 1983.

The laboratories named below have been newly accredited for testing freshly mixed field concrete (Concrete LAP) under the National Voluntary Laboratory Accreditation Program

(NVLAP). Also listed are the test methods for which the laboratories have been accredited under that program.

FRESHLY MIXED FIELD CONCRETE

NVLAP code	Designation	Short title
02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

Toledo Testing Laboratory, Inc., Attn.: Thomas R. Uhler, 1810 North Testing Laboratory, Inc., Toledo, OH 43603, Phone: (419) 241-7175.

02/M01	ASTM C31	Making and Curing Concrete Test Specimens in the Field.
02/M03	ASTM C172	Sampling Fresh Concrete.
02/P01	ASTM C143	Slump of Portland Cement Concrete.
02/W01	ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
02/A01	ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.
02/S01	ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.

STS Consultants, Ltd., Attn.: Henry L. Lucas, 2929-C Eskridge Road, Fairfax, VA 22031, Phone: (703) 698-5300.

The laboratory named below which was previously accredited for acoustical testing services (Acoustics LAP) has now been accredited to perform the following additional test methods under that program.

Manville Corporation, R & D Center, Attn.: Joseph P. Ferraro, P.O. Box 5108, Denver, CO 80217, Phone: (303) 978-5553

NVLAP code	Designation	Short title
08/P03	ANSI/ASTM C423-81.	Sound Absorption and Sound Absorption Materials.
08/P06	ANSI/ASTM E90-82.	Airborne Sound Transmission Loss of Building Partitions.

The following laboratories renewed their accreditation under the Freshly Mixed Field Concrete Laboratory Accreditation program.

Apace Building Products Company, Linden, NJ

STS Consultants, Ltd., Raleigh, NC office, Raleigh, NC

Construction Materials Consultants, Inc., Colorado Springs, CO

Pittsburgh Testing Laboratory, Pittsburgh, PA

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, D.C. 20234 (301) 921-3431.

Dated: September 9, 1983.

John W. Lyons,

Acting Director, National Bureau of Standards.

[FR Doc. 83-25106 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) as amended, notice is hereby given of subcommittee meetings of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on matters pertinent to the Department's responsibilities for marine fishery resources and on means to facilitate cooperation between public and private interests in these matters.

DATE: The meetings will convene on September 27, 1983, at 8:00 a.m. and adjourn at approximately 5:00 p.m.

ADDRESS: The meetings will be held in Atrium #216-217 at the Old Colony Inn in Alexandria, Virginia.

Meeting agenda. The Budget and Strategic Planning subcommittee will meet from 8:00 a.m. to 9:30 a.m. to discuss the FY 83-86 budgets for NMFS and the NMFS strategic planning system. The State/Federal/Regional Council Living Marine Resources subcommittee will meet from 9:30 a.m. to 10:30 a.m. to discuss the East Coast squid joint venture and amendment one; framework fishery management plans; and coastal fisheries, interjurisdictional management. The Habitat Conservation subcommittee will meet from 10:30 a.m. to 12:00 noon to discuss the status of the habitat conservation policy; regulatory reform; and hydroelectric projects in the Pacific Northwest. The Commercial Fishing and Consumer Affairs subcommittees will meet together from 1:30 p.m. to 3:00 p.m. to discuss preemption of States rights; foreign corporations exporting fish products into the U.S.; "US Corporation" services to fishing industry; US government-fishing; industry technological efforts; and the role of foreign joint ventures in government fisheries policy. The Marine Recreational Fishing subcommittee will meet from 3:00 p.m. to 5:00 p.m. to discuss artificial fishing reef program and the role of the Federal government; NMFS MRF statistical program; NMFS program development plan for marine recreational fisheries in the Southeast region; report on 1984 Industry Fisheries Conference and 1984 National Conference on Tourism and Recreational Fishing; and legislative update.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, Washington, DC., 20235, telephone: (202) 634-9563.

Dated: September 12, 1983.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 83-25273 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-08-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established Plan Management Teams for Fishery Management Plans initiated by the Council.

The Plan Management Team for the Gulf of Alaska Fishery Management Plan will hold a Team meeting at the Northwest & Alaska Fisheries Center, 2725 Montlake Blvd. E, Seattle, Washington, on September 20 & 21, 1983. The meeting will begin at 9:00 a.m. The purpose of the meeting is to review assessments of the Gulf of Alaska stocks and to determine a preliminary Equilibrium Yield for 1984. Plan Team meetings are open to the public and may be shortened or lengthened as necessary.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

Dated: September 8, 1988.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-25087 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limit for Certain Cotton Apparel Products Produced or Manufactured in Korea

September 12, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 15, 1983. For further information contact William Boyd, International Trade Specialist, 202/377-4212.

Background

A CITA directive dated March 31, 1983 (48 FR 14737) established a level of restraint of 53,519 dozen for cotton sweaters in Category 345, produced or manufactured in Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1983. This level is being: (1) Increased by 248 dozen as a result of an increase in the level of trade used to calculate the 1983 limit and (2) reduced by 8,095 dozen in overshipments from 1982. The net effect will be to decrease the 1983 limit for Category 345 to 45,672 dozen. These actions are taken in accordance with the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982 between the Governments of the United States and the Republic of Korea.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 12, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 23, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Effective on September 15, 1983, you are directed to reduce the level of restraint established for cotton textile products in Category 345 to 45,672 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 6 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25202 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The level has not been adjusted to account for any imports after December 31, 1982.

Change in Officials of the Government of Pakistan Authorized To Issue Export Visas for Certain Cotton Textile Products From Pakistan

September 9, 1983.

The Government of Pakistan has notified the United States Government under terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982 that Mr. Rehmat or Rehman is now authorized to issue export visas for cotton textile products exported to the United States. The purpose of this notice is to advise the public of this change.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25142 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Categories 319 and 361

September 9, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On September 7, 1983 the Government of the United States requested consultations with the Government of Hong Kong with respect to Categories 319 (cotton duck), and 361 (cotton sheets). These requests were made on the basis of the agreement of June 23, 1982 as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose is this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 319 and 361, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983. The Government of the United States also reserves the right to control imports of these categories as the established limits.

Any party wishing to comment or provide data or information regarding the treatment of Categories 319 and 361 under the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitutes "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25141 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With Taiwan To Review Trade in Category 319

September 9, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On September 6, 1983 the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs

concerning exports from Taiwan in Category 319 (cotton duck). This request was made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 319, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right to invoke import controls on this category, as defined in the agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Category 319 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-25143 Filed 9-14-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Tactical Cross-Matrix Panel; Meeting

September 8, 1983.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel meeting published in the **Federal Register**, Volume 48, page 40423, Wednesday, September 7, 1983 has been changed to October 13–14, 1983.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-25096 Filed 9-14-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board, Electronic Systems Division Advisory Group, Air Force Systems Command, Meeting

September 8, 1983.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, has cancelled the meeting scheduled for 13–14 Sep 83 at Griffiss AFB, NY. Notice of this meeting was published in the **Federal Register** Vol. 48, page 39114, August 29, 1983.

For further information contact the Scientific Advisory Board Secretary at (202) 607–6845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-25097 Filed 9-14-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

International Education Programs National Advisory Board; Meetings

AGENCY: National Advisory Board on International Education Programs, Education.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule of two forthcoming meetings of the Subcommittee on Critical Needs in International Education as delegated by the National Advisory Board on International Education Programs. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend.

DATES: September 29 and October 25, 1983.

ADDRESSES: September 29—ROB-3, The Gold Room, Room 3652; October 25—FOB-6, The Sanchez Room, Horace Mann Learning Center, Room 1130.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Whitehead or Marguerite A. Follett, International Education Programs Office, ROB-3, Room 3916, 400 Maryland Avenue, SW., Washington, D.C. 20202, (202) 245-9691.

SUPPLEMENTARY INFORMATION: The National Advisory Board on International Education Programs is established under Section 621 of the Higher Education Act of 1965 as amended by the Education Amendments of 1980 (Pub. L. 96-374; 20 U.S.C. 1131). Its mandate is to advise the Secretary of Education. The purpose of this Subcommittee is to assess critical needs in international education and to make recommendations to the full Board which in turn will make recommendations to the Secretary.

These Subcommittee meetings are open to the public. The meetings will be held from 9:00 A.M. to 5:00 P.M.

Records are kept on the Subcommittee proceedings and are available for public inspection at the office of the National Advisory Board on International Education Programs from 8:00 A.M. to 4:00 P.M., ROB-3, 7th and D Streets, SW., Room 3919, Washington, D.C.

Signed at Washington, D.C. on September 13, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-25343 Filed 9-14-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-05-NG]

Natural Gas Imports; Vermont Gas Systems, Inc.; Petition To Amend Import Authorizations and Motion for Expedited Consideration

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Filing for succession in interest and amendment of authorizations to import Canadian natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 24, 1983, of a joint petition filed by Vermont Gas Systems, Inc., a Delaware corporation (Vermont Gas-Delaware), and Vermont Gas Systems, Inc., a Vermont corporation (Vermont Gas-Vermont), to amend the authorizations to import Canadian natural gas heretofore issued to Vermont Gas-Delaware by substituting its successor in interest, Vermont Gas-Vermont, as the authorized importer.

The petition is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., on September 22, 1983.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9482

Diane J. Stubbs, Office of General Counsel, Natural Gas and Minerals Leasing, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6667

SUPPLEMENTARY INFORMATION: On August 24, 1983, Vermont Gas-Delaware and Vermont Gas-Vermont filed a joint petition and motion for expedited consideration to amend by September 6, 1983, the existing import authorizations previously granted to Vermont Gas-Delaware to substitute Vermont Gas-Vermont in lieu of Vermont Gas-Delaware as the authorized importer of the Canadian natural gas.

Vermont Gas-Delaware is an intrastate pipeline which transports, distributes and sells natural gas within the State of Vermont. It is entirely dependent on Canadian imports and purchases all of its natural gas supply from TransCanada PipeLines Limited (TransCanada) under a contract dated February 16, 1966, as amended. Pursuant to import authority granted by the Federal Power Commission (FPC) in orders issued in Docket Nos. CP65-141 and CP65-142 (33 FPC 899), CP69-132 (40 FPC 1521), CP72-38 (46 FPC 1217) and CP76-100 (55 FPC 445) and later by the ERA in orders issued in Docket Nos. 80-10-NG (1 ERA Para. 70,508, Federal Energy Guidelines), 80-15-NG (1 ERA Para. 70,534, Federal Energy Guidelines), 81-20-NG (1 ERA Para. 70,527, Federal Energy Guidelines) and 81-33-NG (an unpublished Opinion and Order), Vermont Gas-Delaware is presently authorized to import up to a total quantity of 22,400 Mcf of gas per day, which will periodically increase to a maximum of 25,600 Mcf per day beginning November 1, 1986, and ending on October 31, 1991. The gas is delivered at a point of interconnection between Vermont Gas-Delaware's pipeline system and TransCanada's system on the international boundary near Highgate Springs, Vermont.

By the terms and conditions of the FPC order issued in Docket No. CP65-142, as subsequently amended, the authorization under which the natural gas is imported "shall not be transferable or assignable" without first obtaining governmental permission and approval.

The petition indicates that upon completion of certain transactions, Vermont Gas-Delaware will be merged into Vermont Gas-Vermont pursuant to a statutory merger that is authorized by Delaware and Vermont law. Vermont Gas-Delaware will cease to exist and the Vermont corporation will be the surviving company. It is also stated that there are no plans to change the operations or management of the company. According to the petitioners, the Gas Purchase Contract with TransCanada specifically permits succession to the contract, in which case the successor is entitled to the rights and subject to the obligations of its predecessor.

Petitioners desire timely approval of their request to avoid, among other things, incurring large commitment fees to secure a line of credit for the purchase of the Delaware corporation. In view of their request for expedition and because Vermont Gas-Vermont proposes to continue the import without change in either the present maximum daily quantities, or in Vermont Gas-Delaware's facilities or operations, we are limiting the intervention period to 7 days. However, in the future we expect that such petitions will be filed in a more timely fashion to provide sufficient time for the ERA to consider them and so that a longer period for intervention can be permitted.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this joint petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m., on September 22, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of the petition is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-25287 Filed 9-14-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

[Form EIA-97]

Boiler Order Report (Form EIA-97); Proposed Inquiry

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of Proposed Extension for Form EIA-97, "Boiler Order Report," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the U.S. Department of Energy (DOE) announces a proposed extension of Form EIA-97, "Boiler Order Report," and invites comments on the survey and contents of the form.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESS: Send comments to Albert D. Gerard at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the Form EIA-97, contact Albert D. Gerard, EIA-521, Mail Stop: 2F-021, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-5752.

SUPPLEMENTARY INFORMATION:

I. Background
II. Request for Comments

I. Background

The EIA proposes extension of the Form EIA-97, "Boiler Order Report." The form is required of all U.S. boiler manufacturing companies, their foreign affiliates and subsidiaries and U.S. boiler rental/leasing companies that receive an order from an electric utility or an industrial firm operating in the continental U.S., Alaska, Hawaii or any of the U.S. Territories and Administered Areas for a boiler having a rated capacity of 40,000 or more pounds of steam per hour.

The form provides the EIA with the means to produce data on the projected demand for fuels by electric utilities and industrial firms by boiler capacity, boiler function, fuels used, and delivery dates for various industrial groupings and geographic locales.

II. Request for Comments

A copy of Form EIA-97 and Instructions has been reproduced and appears following this notice. The EIA invites prospective respondents to comment within 30 days of the publication of this notice. The following general guidelines are provided to assist in the responses:

(As a potential data provider)

a. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

b. Can the data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your organization require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, State or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved?

(As a potential user)

a. Do you need data at the levels of detail indicated on the form?

b. For what purposes would you use these data?

(Be specific.)

c. How could the form be improved to better meet your specific data needs?

d. Are there alternative sources of data and do you use them? What are their deficiencies?

DOE is also interested in receiving comments from persons as to their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., September 9, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

Energy Information Administration
Boiler Order Report

U.S Department of Energy

This report is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 93-275. Failure to file may result in criminal fines, civil penalties or other sanctions as provided by law. For provisions concerning the confidentiality of information submitted on this form see Section H of the Instructions.

Form Approved
OMB No. 1905-0123
Approval Expires 12/31/83

Please return the completed form to EIA in the business reply envelope provided before

(Please make any corrections to the mailing label in the space provided to the right of the label)

1. Identification

A. Type of Report (check one) ☐ submission for the current reporting quarter. ☐ revision to data submitted for _____ quarter/year

B. Respondent

Complete only if different from that shown on the mailing label above or if your point of contact has changed.

(i) Enter the name and address of the boiler manufacturer or rental/leasing company submitting this report.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number for the boiler manufacturer or rental/leasing company representative who can answer questions regarding the information provided on this form.

Name Title Telephone No. *(Area Code)*

2. Purchaser/Renter/Lessee Information

A. Purchaser/Renter/Lessee

(i) Enter the name and address of the company from whom you received the boiler purchase/rental/lease order.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number of the purchaser/renter/lessee company representative/agent.

Name Title Telephone No. *(Area Code)*

B. Operating Company

Complete this section only if the boiler will be operated by a company other than the purchaser/renter/lessee.

(i) Enter the name and address of the operating company for this boiler.

Company Name

Address *(Street)* *(City)* *(State)* *(Zip)*

(ii) ***Point of Contact***

Enter the name, title and telephone number of the operating company representative/agent.

Name Title Telephone No. *(Area Code)*

Energy Information Administration
Boiler Order Report Page 2

U.S. Department of Energy

EIA Identification No. _____

3. Boiler Information

A.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order			Delivery Date			Boiler Function (Check One)			Rated Capacity (Pounds of Steam Per Hour)
		YR	MO	DAY	YR	MO	DAY	Gen of Electricity	Process Steam	Space Heating	

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter/ startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7

B.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order			Delivery Date			Boiler Function (Check One)			Rated Capacity (Pounds of Steam Per Hour)
		YR	MO	DAY	YR	MO	DAY	Gen of Electricity	Process Steam	Space Heating	

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7

C.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order			Delivery Date			Boiler Function (Check One)			Rated Capacity (Pounds of Steam Per Hour)
		YR	MO	DAY	YR	MO	DAY	Gen of Electricity	Process Steam	Space Heating	

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7

D.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order			Delivery Date			Boiler Function (Check One)			Rated Capacity (Pounds of Steam Per Hour)
		YR	MO	DAY	YR	MO	DAY	Gen of Electric	Process Steam	Space Heating	

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7

E.

Boiler Number*	Boiler Manufacturer's or Rental/ Leasing Company's Purchase Order No. or Contract No.	Date of Order			Delivery Date			Boiler Function (Check One)			Rated Capacity (Pounds of Steam Per Hour)
		YR	MO	DAY	YR	MO	DAY	Gen of Electricity	Process Steam	Space Heating	

Using the fuel codes from the listing provided below, enter the fuels that the boiler is designed to fire in order of the operator's design preference excluding igniter startup fuels. Start with the primary fuel in column one. Indicate fuel mixtures as follows: for coal and oil, use 01/02. If you use code 07, identify the fuel in the comments section.

1	2	3	4	5	6	7

Fuel Codes:

01 – Bit. Coal
02 – Oil
03 – Nat gas
04 – Wood bark, or solid wood products
05 – Bagasse
06 – Blk liquor
07 – Other fuels**
08 – Wasteheat
09 – Wasteheat with aux fining
10 – Lignite
11 – Raw Municipal, unsorted
12 – Raw Municipal, non-combustible removed
13 – Raw Municipal sorted and sized
14 – Other industrial waste
15 – Combustible waste gas
16 – Coal gas

*To be assigned by the respondent from the block of numbers given by EIA.
**Specify in comments below.

4. Comments

5. Confidentiality Statement

Please read Section H of the instructions before completing this section of the form.

A. Information requested on this form is confidential and if released will cause substantial competitive injury. ☐ Yes ☐ No

B. Written substantial justification is attached. ☐ Yes ☐ No

C. Written substantial justification previously submitted. ☐ Yes, date _____ ☐ No

6. Certification

This part of the form must be completed by the company official empowered to certify that the information provided on this form is true and accurate. Print or type the certifying official's name and title. The certifying official must sign and date the certification.

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name _____ Title _____

Signature _____ Date _____

Title 18, USC 1001 makes it a crime for any person knowingly and willingly to make to any agency or department of the United States any false, fictitious or fradulent statement as to any matter within its jurisdiction.

EIA-97 (September 1981) **EIA (White Copy) – Respondent (Yellow Copy)**

Instructions for Completing Form EIA-97, "Boiler Order Report"

A. Purpose

Form EIA-97 is designed to provide the Energy Information Administration (EIA) with information on orders by electric utilities and industrial firms operating in the continental U.S., Alaska, Hawaii, and any of the U.S. Territories and Administered Areas (i.e., Puerto Rico, Virgin Islands, etc.) for boilers having a rated capacity of 40,000 or more pounds of steam per hour. The data collected will be used in the compilation of aggregated statistical reports, for demand related analyses and as input to EIA models such as the Midterm Energy Forecasting System (MEFS) and the National Coal Model (NCM). This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275).

B. Who Must Submit

Form EIA-97 must be submitted by all U.S. boiler manufacturing companies, their foreign affiliates and subsidiaries and U.S. boiler rental/leasing companies that receive an order from an electric utility or an industrial firm operating in the continental U.S., Alaska, Hawaii or any of the U.S. Territories and Administered Areas for a boiler having a rated capacity of 40,000 or more pounds of steam per hour. Orders for more than one boiler from a single purchaser/operator may be reported on a single Form EIA-97. Submit the white copy to EIA and retain the yellow copy.

C. Where to Submit

Form EIA-97 should be returned in the business reply envelope provided with the form to:

Energy Information Administration, EI-34
Mail Station: BG-086, Forrestal
U.S. Department of Energy
Washington, D.C. 20585

Requests for further information, additional forms, or business reply envelopes should be directed to the address above or by telephone on EIA's toll free number (800) 424-9041. In the Washington, D.C. area call (202) 252-6621.

D. When to Submit

Form EIA-97 must be submitted no later than 30 working days (6 weeks) after the close of each reporting quarter. The reporting quarters are: January 1 - March 31 (first); April 1 - June 30 (second); July 1 - September 30 (third); and October 1 - December 31 (fourth).

E. Sanctions

The timely submission of Form EIA-97 by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to make information available to EIA in accordance with these instructions, may result in criminal fines, civil penalties and other sanctions as provided by Section 13 (i) of the FEA Act (P.L. 93-275).

F. Definitions

1. *Electric Utility* — All privately owned companies and all publicly owned agencies engaged in the production of electric power for public use. Publicly owned agencies include the following: municipal electric utilities; federal power projects such as the Tennessee Valley Authority (TVA); and rural electrification cooperatives; power districts; and state power projects.
2. *Industrial firms* — those firms engaged in agriculture, mining, manufacturing, and construction industries. **Excluded** are wholesale, retail and service businesses including boiler rental companies, health institutions (hospitals), educational institutions (schools and universities), and federal, state, and local governments.
3. *U.S. Territories and Administered Areas include:* American Samoa, Guam, Johnston Atoll, Midway Islands, Puerto Rico, Northern Mariana Islands, U.S. Miscellaneous Pacific Islands, Trust Territories of the Pacific Islands, Navassa Islands, Virgin Islands, and Wake Island.

G. General Instructions

Submit a separate report for each order. Orders for more than one boiler from a single purchaser/renter or lessee may be reported on a single Form EIA-97. For revisions to previously submitted data, check the revision box in Section 1.A. and fill out the entire form. Indicate the revised data elements by circling them.

H. Provisions Regarding the Confidentiality of Information

The information on Form EIA-97 may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) [5 U.S.C. 552 (b) (4)] or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of the DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE does not receive a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a Form EIA-97 is submitted if:

a) your views concerning information items identified by you as privileged or confidential have not changed and

b) a written justification setting forth your views in this regard was previously submitted.

By statutory authority DOE must provide this information, when requested, to the Congress or any committee of Congress and the General Accounting Office.

[FR Doc. 83-25085 Filed 9-14-83; 8:45 am]
BILLING CODE 6450-01-C

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP)

Date and Time: Wednesday, October 5, 9:00 am-6:00 pm; Thursday, October 6, 8:30 am-5:00 pm.

Place: Fermi National Accelerator Laboratory, Wilson Hall, Room One-West, Kirk and Pine Streets, Batavia, Illinois 60510.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone: 301/353-4829.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high physics research program.

Tentative agenda:

Wednesday, October 5, 1983

—Discussion of FY 1983-84 DOE High Energy Physics and FY 1984 NSF Elementary Particle Physics Budgets
—Discussion of High Energy Physics Capital Equipment Needs for FY 1984 and Beyond
—Review of Fermilab Programs

Thursday, October 6, 1983

—Discussion of Report of Technical Assessment Committee on University Programs
—Discussion of DOE Actions and Plans Concerning the Recommendations of the 1983 Subpanel on New Facilities
—Discussion of the Newly-Formed Subpanel on Accelerator Research and Development
—Public Comment (10-minute rule)

Public participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on September 9, 1983.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 83-25083 Filed 9-14-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP80-145-008]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

September 12, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 31, 1983, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, as follows:

Eighty-ninth Revised Sheet No. 16

The enclosed tariff sheet bears an issue date of August 31, 1983 and an effective date of August 1, 1983.

Columbia states that the instant tariff filing is being made in compliance with the Commission's May 18, 1983 Order Approving Settlements in *Tennessee Gas Pipeline Company, et al.*, 23 FERC ¶ 61,233 (1983) in which the Commission, *inter alia*, approved the December 13, 1982 Stipulation and Agreement As To Liquids and Liquefiables in the rate proceedings of Columbia and its affiliate, Columbia Gulf Transmission Company in Docket Nos. RP80-145, *et al.* Section 3 of Article II of said Stipulation requires Columbia to file revised tariff sheets, effective prospectively, appropriately reflecting the effect of the settlement upon its jurisdictional rates.

Columbia respectfully requests that the Commission grant any waivers as it may deem necessary for the acceptance of this filing.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, all such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25253 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-478-000]

Columbia Gas Transmission Corporation; Application

September 12, 1983.

Take notice that on August 22, 1983, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP83-478-000 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 natural gas facilities and for authorization to transport natural gas for Orange & Rockland Utilities, Inc. (O&R), and UGI Corporation (UGI), 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 UGI and O&R have storage service agreements with Penn-York Energy Corporation (Penn-York) and they have requested that Applicant transport, on a firm basis, quantities of natural gas stored by Penn-York and deliver such quantities into the systems of O&R and UGI through existing points of delivery.

Applicant proposes to transport up to a contract demand of 4,600 dt equivalent of gas per day for O&R and up to a contract demand of 22,400 dt equivalent of gas per day for UGI until March 31, 1995, or the date on which Penn-York's storage service agreements with O&R and UGI are terminated, whichever first occurs. Applicant also proposes to transport on a best-efforts basis quantities of natural gas in excess of the respective contract demands of O&R and UGI. Applicant would retain for company-use and unaccounted-for gas 2.85 percent of the total quantities received for the account of O&R and UGI.

It is stated that for the quantities of natural gas transported on a firm basis, O&R and UGI would pay Applicant a demand charge of $2.36 per dt and a commodity charge of 20.87 cents per dt. It is further stated that for the quantities of natural gas transported on a best-efforts basis, O&R and UGI would pay Applicant an excess deliveries rate, which is currently 7.76 cents per dt, in

addition to the then-effective commodity charge.

Applicant also proposes to construct 7.0 miles of 12-inch pipeline which would consist of 6.4 miles of pipeline connecting Penn-York's storage facilities to Applicant's existing pipeline system in Steuben County, New York, and 0.6 mile of 12-inch pipeline between Applicant's existing pipeline system and its Greenwood Compressor Station also in Steuben County, New York. It is stated that O&R and UGI would reimburse Applicant amounts equal to 17.04 percent and 82.96 percent, respectively, of the total actual cost. After such reimbursement, Applicant would convey the facilities to O&R and UGI, which would then lease such facilities to Applicant for a nominal amount. Applicant proposes to lease and operate such facilities for the transportation of natural gas for UGI and O&R.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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. 83-25254 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-710-000]

Iowa-Illinois Gas and Electric Co.; Filing

September 9, 1983.

The filing Company submits the following:

Take notice that on August 29, 1983, Iowa-Illinois Gas and Electric Company, (Iowa-Illinois) tendered for filing a transmission Service Agreement (Agreement) with Harlan Municipal Utilities, (Harlan) dated June 13, 1983.

Iowa-Illinois further states that the Agreement was negotiated based upon cost service reflective and comparable rate methodologies, and provides for utilization by Harlan, with respect to its share of Louisa-capacity, of Iowa-Illinois' 345 kV facilities from Substation 92 to Hills Substation. The Agreement also incorporates transmission rates, charges and a loss responsibility factor designed to compensate Iowa-Illinois for reflected costs of facilities provided, as the scheduling path, and associated operation and maintenance, as well as providing for transmission losses for which compensation in kind is provided. Iowa-Illinois notes that a related, but independent, filing will be made with respect to the operation of Louisa Generating Station outlet transmission facilities of which Substation 92 is a part, and that Harlan contemplates arrangements with others for further delivery of power and energy to its load center.

Iowa-Illinois requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to Harlan, the Iowa State Commerce Commission and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 83-25191 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-14-002 (PGA83-3-(b))]

Lawrenceburg Gas Transmission Corporation; Proposed Change in FERC Gas Tariff

September 12, 1983.

Take notice that on August 29, 1983, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two second substitute gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on August 24, 1983, proposed to become effective August 1, 1983, and identified as follows:

Second Substitute Thirty-first Revised Sheet No. 4

Second Substitute Twenty-eighth Revised Sheet No. 18

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision and in substitution for those previously approved by Commission Order issued August 15, 1983. Lawrenceburg states that this revision was required because of a further reduction in the rates being tracked of Lawrenceburg's supplier, Texas Gas Transmission Corporation.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 83-25257 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-479-000]

Louisiana Intrastate Gas Corporation; Application

September 12, 1983.

Take notice that on August 22, 1983, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria, Louisiana 71310, filed in Docket No. CP83-479-000 an application pursuant to of Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and § 284.127 of the Commission's Regulations for authorization to transport natural gas 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.

It is stated that on August 12, 1983, Southern and Applicant entered into a one-year gas transportation agreement under which Applicant would receive gas from Southern at a point of delivery in East Orleans Parish, Louisiana, and redeliver the same quantity of gas to New Orleans Public Service Inc. (NOPSI) at a different point in East Orleans Parish, Louisiana. This transportation agreement is related to the proposed off-system sale of gas by Southern to NOPSI, it is explained. The total volume of gas to be transported under the proposed transportation agreement would be 21,960 billion Btu with the maximum daily volumes being 60 billion Btu, it is said. Applicant proposes to render the proposed transportation service for no fee because of the mutual benefits derived by the parties. Applicant requests approval of its transportation agreement which is not self-implementing because Applicant is delivering gas directly to Southern's customer for Southern's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25258 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-471-000]

Michigan Wisconsin Pipe Line Company; Request Under Blanket Authorization

September 12, 1983.

Take notice that on August 17, 1983, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-471-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Mich Wis proposes to add a new delivery point to Northern Indiana Fuel and Light Company (Northern Indiana) near Orland, Steuben County, Indiana, under the authorization issued in Docket No. CP82-480-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Mich Wis states that natural gas sales are made to Northern Indiana pursuant to the service agreement between the parties dated May 11, 1983, effective November 1, 1982 (Docket Nos. RP81-69 and RP82-80). Northern Indiana has requested the new delivery point to serve the industrial, commercial, and residential natural gas requirements of the community of Orland, Indiana. The maximum daily deliveries at the Orland delivery point will not exceed 500 dt equivalent of gas which are within Northern Indiana's currently existing peak day and annual entitlements from Mich Wis, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25260 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-25-003]

Mississippi River Transmission Corporation; Rate Change Filing

September 12, 1983.

Take notice that on September 2, 1983, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Eighty Seventh Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1. Said tariff sheet is proposed to be effective as of September 1, 1983.

Mississippi states that the filing is being submitted pursuant to a Commission letter order dated August 29, 1983 at Docket No. TA83-2-25-002 which accepted for filing Mississippi's Eighty Seventh Revised Sheet No. 3A to be effective September 1, 1983, subject to any downward adjustment necessary to reflect that proper rates for Mississippi's pipeline suppliers as of such date. Mississippi states that the instant filing reflects rate changes from United Gas Pipe Line Company and Natural Gas Pipeline Company of America. The combined annual cost reduction of this PGA revision to Mississippi's jurisdictional customers is approximately $21.3 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 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, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25261 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-129-000]

National Fuel Gas Supply Company; Tariff Filing

September 12, 1983.

Take notice that on September 2, 1983, National Fuel Gas Supply Company (National Fuel) tendered for filing proposed Rate Schedule T-2 to its FERC Gas Tariff, Original Volume No. 1. The filing consists of a new tariff governing transportation for end users pursuant to Order No. 319. National Fuel requests that Rate Schedule T-2 be made effective on October 1, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 83-25263 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-68-002]

Natural Gas Pipeline Company of America; Amended Motion To Make Tariff Sheets Effective

September 12, 1983.

Take notice that on September 2, 1983, Natural Gas Pipeline Company of America (Natural) filed with the Federal Energy Regulatory Commission an Amended Motion to Make Suspended Tariff Sheets Effective. The rates and charges on the tariff sheets to be effective October 1, 1983, submitted with the Amended Motion, include the revisions required to reflect the total system weighted average unit gas cost per Natural's amended PGA filed on August 23, 1983, to be effective September 1, 1983.

Natural states that copies of the motion, together with the tariff sheets and work papers, have been mailed to all of Natural's jurisdictional customers, all parties to this proceeding, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25262 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-40-000; PGA84-1]

Raton Natural Gas Company; Change in Rates

September 12, 1983.

Take notice that Raton Natural Gas Company (Raton), on August 31, 1983, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Thirty-first Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is October 1, 1983.

Raton states that the instant notice of change in rates is occasioned solely for decrease in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost decrease results in decrease in Demand Rate From $2.68 to $2.61 and decrease in Commodity Rate from 393.92¢ to 372.40¢ per MCF. The annual revenue decrease, by reason of the tracking, amounts to $193,645.

Raton has also filed revisions to Section 18 of its FERC Gas Tariff to comply with changes previously made in Commission Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Sept. 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25264 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-38-000]

Ringwood Gathering Company; Filing of Revised Tariff Sheets

September 12, 1983.

Take notice that on September 1, 1983, Ringwood Gathering Company (Ringwood) tendered for filing Thirty-first Revised Sheet PGA-1. Ringwood states that Thirty-first Revised Sheet PGA-1 will become effective on October 1, 1983, and revise its Base Tariff Rate to reflect the increase in the system cost of purchased gas and refund the balance accumulated in its unrecovered purchased gas cost account.

Ringwood further states that the projected cost of purchased gas, as computed in said filing, is based on the applicable NGPA rates for October, 1983.

Ringwood states that copies of this filing were served upon Northwest Central Pipeline Corporation, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 83-25265 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-42-000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

September 12, 1983.

Take notice that on August 31, 1983, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following sheets:

Twenty-third Revised Sheet No. 5
Twenty-third Revised Sheet No. 6
Eighth Revised Sheet No. 6A

The above tariff sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of The General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment reflected in these sheets is an increase of 21.59 cents/dth measured against the June 1, 1983 motion filing made by Transwestern in Docket No. EP83-25 on May 27, 1983, as amended June 21, 1983.

The rate change therein consists of:

(1) An increase in the cost of Gas Adjustment of 15.55 cents/dth based upon increases in the projected gas costs;

(2) An increase in the Surcharge Adjustment of 6.04 cents/dth due to an increase in the balance in the Gas Cost Adjustment Account as of June 30, 1983; and,

(3) The Incremental Pricing Surcharges for the months of October, 1983 through March, 1984 are projected to be zero.

The proposed effective date of these tariff sheets is October 1, 1983.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 83-25266 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-265-001]

Wyoming Interstate Company, Ltd.; Amendment

September 12, 1983.

Take notice that on August 29, 1983, Wyoming Interstate Company, Ltd. (Applicant), Post Office Box 1087, Colorado Springs, Colorado, 80944, filed in Docket No. CP83-265-001 an amendment to its pending application filed in Docket No. CP83-265-000, pursuant to Section 7(c) of the Natural Gas Act, to reflect a change in contract demand volumes of gas proposed to be transported from those originally proposed, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant indicates that it did not include the contract demand volumes nominations contained in this amendment of Colordao Interstate Gas Company (CIG), Natural Gas Pipeline Company of America (Natural), Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), and Columbia Gas Transmission Corporation (Columbia) (collectively Shippers) in the first filing as Applicant anticipated timely Commission approval of Applicant's request to add Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), in Applicant's Docket No. CP83-63-000. Applicant does not now anticipate certification requested in Docket No. CP83-63-000 prior to October 1, 1983, and now proposes to revise the contract demand volumes of its existing Shippers as shown below. However, if the Commission should certificate the request in Docket No. CP83-63-000 prior to action in the instant proceeding, Applicant requests, in the alternative, the contract demand volumes revision originally requested in Docket No. CP83-265-000 be authorized.

The revised contract demand volumes are as follows:

Shippers	Docket No. CP83-265-001 [1]	Alternative Docket No. CP83-265-001 [1]
CIG	150,000	150,000
Natural	178,000	140,000
Northern	89,000	70,000
Columbia	83,000	65,000
Tennessee		[2] 75,000
Total	500,000	500,000

[1] Mcf per day.
[2] Assumes authorization of the transportation service for Tennessee in Docket No. CP83-63-000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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. Persons having heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25192 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-385-000]

City of Benicia, California; Application for Commission Certification of Qualifiying Status of a Cogeneration Facility

September 12, 1983.

On August 12, 1983, city of Benicia, (Applicant) of City Hall, 250 East L Street, Benicia, California 94510, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the waste water treatment plant in Benicia, California. The primary energy source for the facility will be biomass in the form of digester gas. The thermal energy output will be used to heat the primary digester. The electric power production capacity of the facility will be 64 kilowatts.

Any person desiring to be heard or

objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25252 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-396-000]

Hollandia Dairy; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 12, 1983.

On August 19, 1983, Hollandia Dairy, (Applicant) of 622 East Mission Road, San Marcos, California 92069, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Hollandia Dairy in San Marcos, California. The facility will consist of a reciprocating engine with appropriate heat recovery equipment. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 60 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25255 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-420-000]

Kohala Mountain Wind Energy Investors—1982; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 12, 1983.

On July 1, 1983, Kohala Mountain Wind Energy Investors, of c/o Wagstaff and Brady, Managing General Partner, Berkeley, California 94710, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 100 kilowatt wind facility will be located at Kahuku TMK 5-6-03: 32 and TMK 5-6-03: 6, Amorient Aquaculture International, P.O. Box 131, Kahuku, Hawaii 96731.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-25256 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS71-354-000, et al.]

Lubrication Engineers, Inc. (Shenandoah Oil Corporation), et al.; Applications for "Small Producer" Certificates [1]

September 12, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71-354-000	[1] 9/8/83	Lubrication Engineers, Inc. (Shenandoah Oil Corporation), P.O. Box 7128, 3851 Airport Freeway, Fort Worth, Texas 76111.
CS71-1070-000	[2] 7/26/83	Russell V. Johnson, Jr., Johnson Exploration Company, 330 First Life Assurance Building, Oklahoma City, Oklahoma 73102.
CS75-400-001	[3] 9/1/83	Mrs. Ruth G. Hardman (formerly Ruth G. Kistler), (Kistler Investment Company), 10 East 53rd Street, New York, N.Y. 10022.
CS78-460-001	[4] 8/11/83	Bi-Petro Inc. (Illini Gas Company, Inc.), 3180 Adloff Lane, P.O. Box 3245, Springfield, Illinois 63708.
CS78-815-001	[5] 9/6/83	Intercity Management Corporation (Driscoll Production Company), 622 Buaranty Bank Plaza, Corpus Christi, Texas 78475.
CS81-81-001, CS75-335-001, CS81-88-001	[6] 8/11/83	Oakwood Resources Inc., Euratex Corporation, Sion Exploration Inc. (Yucca Petroleum Co.), Suite 107 Northcreek Place, Building B, 9451 LBJ Freeway, Dallas, Texas 75243.
CS83-102-002	[7] 8/4/83	Graham Energy, Ltd. (St. Paul Oil and Gas Corporation), 3510 North Causeway Boulevard, P.O. Box 8058, Metairie, Louisiana 70011.
CS83-92-000	6/8/83	Thomas P. Shaw, 1407 E. 21st Street, Tulsa, Oklahoma 74114.
CS83-104-000	7/25/83	Catherine Farmer, P.O. Box 664, Chandler, Texas 75758.
CS83-105-000	7/25/83	John M. Farmer, P.O. Box 901, Chandler, Texas 75758.
CS83-107-000	8/12/83	Evelyn Gruss Lipper, 450 Park Avenue, Suite 1801, New York, N.Y. 10022.
CS83-108-000	8/15/83	Redgate Petroleum Inc., Box 24, Waynoka, Oklahoma 73860.
CS83-109-000	8/15/83	Frederick L. Lilly, Jr., 2895 Brighton Road, Shaker Hts. Ohio 44120.
CS83-110-000	8/16/83	Van Oil Company, 300 Hightower Building, Oklahoma City, Oklahoma 73102.
CS83-111-000	8/22/83	Chester M. Olson, 306 Cecil St., Waynoka, Oklahoma 73860.
CS83-112-000	8/22/83	Janet Margaret Holbert, Box 111, Bethel, Missouri 63434.
CS83-113-000	8/25/83	Marita Jean Almandinger, 4635 Bunting, Orlando, Florida 32812.
CS83-114-000	8/29/83	Robert D. Valerius, Star Route 1, Box 277, Rockport, Texas 78382.
CS83-115-000	8/29/83	Floxco, Star Route 1, Box 277, Rockport, Texas 78382.
CS83-116-000	9/6/83	Margaret D. White, P.O. Box 7041, Midland, Texas 79702.

[1] Letter received dated August 30, 1983, requesting that the Small Producer Certificate that was issued to Shenandoah Oil Corporation be redesignated under the name of Lubrication Engineers, Inc.

[2] Letter received dated July 22, 1982, requesting that its Small Producers Certificate be amended to include Johnson Exploration Company to its certificate application.

[3] Letter received dated August 30, 1983, requesting that its Small Producer Certificate be amended to include Kistler Investment Company to its certificate application.

[4] Letter received dated August 11, 1983, Bi-Petro Inc. requests that the Commission formally recognize it as the holder, as successor in interest to Illini Gas Company, small producer certificate in Docket No. CS78-460-000.

[5] Letter received dated August 31, 1983, to inform the Commission that Driscoll Production Company became a defunct corporation in June 1978 and that its small producer certificate was acquired by Intercity Management Corporation.

[6] Letter received dated August 9, 1983, advising the Commission that effective October 1, 1980, Oakwood Resources Inc., Docket No. CS81-81-001, Euratex Corporation, Docket No. CS73-335-001 and Sion Exploration Inc., Docket No. CS81-88-001 acquired all of the producing properties of Yucca Petroleum Company, Docket No. CS66-19-000.

[7] Letter received dated July 27, 1983, requesting that its Small Producer Certificate be amended to include St. Paul Oil and Gas Corporation to its certificate application.

[FR Doc. 83-25259 Filed 9-14-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL—2433-8]

Reissuance of Final General NPDES Permits for Oil and Gas Operations in Portions of the Gulf of Mexico

AGENCY: Environmental Protection Agency.

ACTION: Notice of final general NPDES permits.

SUMMARY: The Regional Administrator of Region VI is today reissuing three final general NPDES permits for certain discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These final general NPDES permits establish effluent limitations, standards, prohibitions and other conditions on discharges from oil and gas facilities. These permits allow facilities permitted by the general permits issued on April 3, 1981 at 46 FR 20264, to continue the authorization to discharge. Covered facilities are located in the Gulf of Mexico seaward of the inner boundary of the territorial seas off the States of Louisiana and Texas and located west of 87° 40′ West Longitude exclusive of certain potentially productive or unique biological areas identified in Part III.B. of each permit. These permits fo not authorize discharges into the territorial seas of Mississippi or Alabama, or from facilities defined in 40 CFR Part 435 as "Onshore" or "Coastal." Also, these permits do not cover facilities defined in 40 CFR 122.2 as "new sources." Copies of the permits are reprinted as required by 40 CFR 122.28.

ADDRESSES: Notifications required under these permits should be sent to the Director, Water Management Division (6W), Region VI, U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

FOR FURTHER INFORMATION CONTACT: Mark Satterwhite (6W-PS), U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Interfirst Two Building, Dallas, Texas 75270. Telephone (214) 767-2765.

SUPPLEMENTARY INFORMATION: Public notice of the draft permits was published in the **Federal Register** on April 4, 1983 and in the Houston Post and New Orleans Times Picayune on April 16, 1983. The comment period closed on May 16, 1983. Comments on the draft permits were received from: Sierra Club, Houston Regional Group; United States Department of the Interior, Minerals Management Service; American Petroleum Institute; ARCO Oil and Gas Company; Cities Service Oil and Gas Corporation; Conoco Inc.; Exxon Company, U.S.A.; The Gulf Companies; Gulf Oil Exploration and Production Company; Mobil Oil Corporation; Shell Offshore Inc.; and Texaco U.S.A.

Response to Public Comments:

Comment: The permits should be issued for five years.

Response: A five year permit cannot be issued because of the statutory requirement that permits issued after, or extending beyond July 1, 1984, must be based on best available technology economically achieveable (BAT). The permit effluent limits do not incorporate BAT effluent limits.

Comment: The permits should have flexible expiration dates which correspond to the statutory requirement to achieve effluent limits which reflect BAT. This is in anticipation that Congress will extend the current July 1, 1984 deadline.

Response: The specific expiration date reflects the current regulatory requirement. The Agency does not agree that a flexible expiration datae is appropriate.

Comment: The effective date of an NPDES permit is governed by 40 CFR 125.15(b) and cannot be prior to the notice of final issuance. Therefore the effective date cannot be April 29, 1983.

Comment: Renotification should not be required under the reissued permits.

Response: EPA concurs and part I.E.1. of the final permits reflects this concurrence by the addition of part (3).

Comment: The permit should address the effects of formation waters and hydrocarbons from drill cuttings on marine life and ecosystems.

Response: The permit requires BPT based effluent limitations for produced water and drill cuttings which the agency has determined will be adequate to prevent unreasonable degradation of the marine environment. The following published reports are made a part of the administrative record and provide support for the determination of no unreasonable degradation.

Brooks, J. M., E. L. Estes, D. A. Wiensenburg, C. R. Schwab and H. A. Abdel-Reheim. 1980. Investigations of surficial sediments, suspended particulates and volatile hydorcabons at Buccaneer gas and oil field. Vol. I. *In:* Jackson, W. B. and E. P. Wilkens, (eds.). Environmental Assessment of Buccaneer gas and oil field in northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–47, 89 p. Available from: NTIS, Springfield, Virginia.

Gallaway, B. J. 1980. Pelagic, reef and demersal fishes and macrocrustaceans/biofouling communities. Vol. II. *In:* Jackson, W. B. and E. P. Wilkens (eds.) Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–48. 82 p. Available from: NTIS, Springfield, Virginia.

Sizemore, R. K. and K. Olsen. 1980. Bacteriology of a Gulf of Mexico gas and oil field. Vol. III. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–49. 21 p. Available from: NTIS, Springfield, Virginia.

Armstrong, R. S. 1980. Current patterns and hydrography. Vol. IV. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–50. 41 p. Available from: NTIS, Springfield, Virginia.

Middleditch, B. S. 1980. Hydrocarbons, biocides, and sulfur. Vol. V. *In:* Jackson, W. B. and E. P. Wilkens (eds.). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEFC–51. 70 p. Available from: NTIS, Springfield, Virginia.

Tillery, J. B. 1980. Trace metals. Vol. VI. *In:* Jackson, W. B. and E. P. Wilkens (eds). Environmental assessment of Buccaneer gas and oil field in the northwestern Gulf of Mexico, 1975–1980. NOAA Technical Memorandum NMFS–SEF–52. 32 p. Available from: NTIS, Springfield, Virginia.

Koons, C. B., McAuliffe, C. D., and Weiss, F. T., *Environmental Aspects of Produced Waters from Oil and Gas Extraction Operations in Offshore and Coastal Waters, Journal of Petroleum Technology* 723–729, June 1977.

Concentrations of certain priority pollutants were identified in samples of produced water in the EPA Verification Survey, publication PB 82–227489. The pollutants evaluated were benzene, phenol, ethyl benzene, naphthalene, toluene, zinc, lead, cadmium, copper, chromium, nickel and silver. The concentrations of these pollutants in produced water effluents were then compared to the marine water quality criteria to determine the required mixing zone dilution.

The calculation of the depth of a 100 meter radius mixing zone required to meet the criteria assumed a daily average discharge of 1,100 barrels and complete mixing of produced water with ambient water within 24 hours. This evaluation indicates that a mixing zone of less than one meter in depth is required for benzene, phenol, ethyl benzene, naphthalene, toluene, cadmium, chromium, nickel and silver. A mixing zone of less than three meters deep is required for zinc, lead and copper. A table has been added to the administrative record which demonstrates and concentrations of priority pollutants after application of the mixing zone. The calculated area potentially impacted by concentrations of priority pollutants which exceed applicable marine water quality criteria is minimal. In addition, actual field studies (cited above) indicate that measurable adverse impacts occur in a much smaller area than that area projected by using the mixing zone dilutions and effects criteria analysis.

Some minor changes have been made to the draft permits which correct typographical errors or errors of omission made in the original permits as they appeared in 46 FR 20284–20298. The changes related to areas covered are detailed for each permit:

TX0085642—North Padre Island blocks 962 is deleted from excluded areas because it is not within the area of this permit. Garden Banks blocks 113–132 are deleted from the excluded areas because they do not occur within the Flower Gardens vicinity or other sensitive area. High Island East Addition South Extension block A392 is added because it is adjacent to 28 fathom bank.

TX0085651—North Padre Island block 962 is added because it is within the area of this permit.

Paperwork Reduction Act.

EPA has reviewed the requirements imposed on regulated facilities in these final general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq. The information collection requirements of the permits have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. No comments on information collection requirements were made during the comment period for the draft permits.

Dated: August 11, 1983.

Dick Whittington, P.E.,

Regional Administrator, Region VI.

[Permit No. TX0085642]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Act"):

Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in lease areas seaward of the outer boundary of the territorial seas off the States of Louisiana and Texas, and located West of 87° 40' West Longitude, LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof,

are authorized to discharge to receiving waters named

Gulf of Mexico

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
101 Drilling fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill cuttings [2]	do	do	do	Do.
103 Deck drainage [2]	do	do	do	Do.
104 Cooling water				
105 Desalinization unit discharge				
106 Produced waters	Flow rate, oil and grease	MGD [1]	do	Estimate.
		72 mg/l daily max	do	Grab. [3]
107 Produced sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well treatment fluids [2]	Volume	Bbl/month [1]	do	Do.
109 Sanitary waste (10 or more)	Flow rate, residual chlorine	MGD [1]	do	Do.
		1.0 mg/l [4]	do	Grab.
110 Sanitary waste (9 or fewer)				
111 Domestic waste [1]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to this concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the date submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone (214) 767-2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D-3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D-3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of commencement of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) Within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit,

(b) Fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment factility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent

limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D–3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were not feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D–3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B–4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to Comply with Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and hazardous substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated

technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point source covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limiations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit may be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

A. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located in lease areas seaward of the outer boundary of the territorial seas off the States of Louisiana and Texas and located west of 87°40′ West Longitude, less and except the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

FEDERAL LEASE AREAS SEAWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS

Lease area and bank name	Lease block
South Padre Island:	
Sebree bank	1070, 1071, 1084.
North Padre Island:	
Mysterious	A 83, A 84.
Black Fish Ridge	A 72, A 61.
Dream	A 40, A 41.
Four Leaf Clover	905.
Mustang Island:	
Southern	A 9, A 16.
Little Mitch Banks	A 24, A 25
Mustang Island, East Addition:	
Hospital	A 136.
North Hospital	A 117.
Aransas	A 117, A 118.
South Baker	A 95.
Baker	A 62.
Big and Small Dunbar	A 54–A 56.
Matagorda Island:	
Small Dunbar Bad Mud	A 3, A 6.
Litter Sister	A 591.
Four Rocks	A 414, A 415, A 419.
Brazos, South Addition:	
Plane	A 92.
Vicki	A 54.
Snapper Banks	A 60.
White Shrimp Spawning Ground [1].	386–S, 401–S, 402–S, 309–L, 335–L.
Galveston:	
East End	A 64, A 65, A 75.
West End	A 60, A 61, A 76–A 79.
White Shrimp Spawning Ground [1].	307–L, 310–L, 334–L.
High Island, South Addition:	
Stetson Bank	A 502, A 513.
Claypile Bank	A 447, A 464.
Applebaum Bank	A 590, A 591.
Coffee Lump	A 521, A 546.
32 Fathom Bank	A 534.
West Flower Garden Bank	A 573 [2], A 596 [2].
High Island, East Addition, South Extension:	
29 Fathom Bank	A 329, A 392.
Coffee Lump	A 341, A 342.
	A 358–A 360.
East and West Flower Gardens	A 351 [2]–A 355 [2]
	A 361 [2]–364 [2].
Do.	A 365–A 367,
	A 368 [2], A 373 [2],
	A 374–A 379,
	A 380 [2]–A 382 [2],
	A 383–A 389,
	S 390 [2], A 394, A 395 [2],
	A 396–A 401,
	A 402 [2], A 403 [2].
28 Fathom Bank	A 391, A 392, A 271.
East Breaks:	
Applebaum	173,
West Flower Gardens	217 [2].
West Cameron, South Addition:	
Bright Bank	650, 656, 657, 660, 661.
28 Fathom Bank	653.
29 Fathom Bank	590, 591.
East Cameron, South Addition: Unnamed Banks	379.
Garden Banks	
Do.	105, 106, 109, 149, 150, 153, 154, 193, 194,
East and West Flower Gardens	95, 96 [2], 97 [2], 133–135,
	136 [2], 138 [2]–140 [2]
	173 [2], 177 [2]–180 [2]
Vermillion, South Addition:	
Sonnier Rock	305.
Bouma Bank	383, 384, 385, 392, 393.
Razak Bank	404, 405.
Sidner Bank	411, 412.
18 Fathom Bank	408–410.

FEDERAL LEASE AREAS SEAWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS—Continued

Lease area and bank name	Lease block
South Marsh Island, South Addition:	
Alderdice	171, 172, 177, 178.
Parker Bank	202, 203, 194, 195.
Eugene Island, South Addition:	
Fishnet Bank	335, 336, 355, 356.
Alaminos Bank	327–329, 290.
Green Canyon: Alaminos Bank	975, 976.
Ship Shoal, South Addition: Ewing Bank	335–338, 351, 350.
South Timbalier, South Addition: Daphis Bank	314–317.
West Delta, South Addition: Sachett Bank	148.

[1] Indicates lease blocks leased by the State of Texas.
[2] Indicates lease blocks divided by the 4 nautical mile boundary of the proposed Flower Garden Banks Marine Sanctuary. See 46 FR 20264 Part III. B. Excluded Areas.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definition

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

[Permit No. LA0060224]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq; the "Act"): Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located landward of the outer boundary of the territorial seas of the State of Louisiana LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof, are authorized to discharge to receiving waters named Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August, 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring Requirements	
			Measurement frequency	Sample type
101 Drilling Fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill Cuttings [2]	do	do	do	Do.
103 Deck Drainage [2]	do	do	do	Do.
104 Cooling Water				
105 Desalinization Unit Discharge				
106 Produced Waters	Flow rate oil and grease	MGD [1]	do	Estimate.
		72 mg/l daily max	do	Grab.[3]
107 Produced Sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well Treatment Fluids [2]	Volume	Bbl/month [1]	do	Do.
109 Sanitary Waste (10 or more)	Flow rate residual chlorine	MGD [1]	do	Do.
		1.0 mg/l [4]	do	
110 Sanitary Waste (9 or fewer)				
111 Domestic Waste [1]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to this concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and mesurements taken for the purpose of monitoring shall be representative of the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than

$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 49 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) the date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) the analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of the noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone No. (214) 767-2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D-3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D-3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of commencement of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit,

(b) fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions:

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D–3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph c of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D–3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B–4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty to Comply with Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a

civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307; or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institition of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer: (1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit May be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

A. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located landward of the outer boundary of the territorial seas of the State of Louisiana LESS AND EXCEPT the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

LEASE BLOCKS LANDWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS OF THE STATE OF LOUISIANA

Lease area and site name	Offshore block
Eugene Island Area:	
Point Au Fer Shell Reef	13, 14, 15, 16.
Shell Keys National Wildlife Refuge and other shell reefs between it and Marsh Island Wildlife Refuge.	1, 8, 9, 10.
South Pass Area: Cockler Point	41, 20, 22, 29, 30.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the

process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. "Territorial Seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

[Permit No. TX0085651]

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Act"): Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located landward of the outer boundary of the territorial seas of the State of Texas LESS AND EXCEPT Facilities operating within the lease blocks identified in Part III B hereof, are authorized to discharge to receiving waters named Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on October 17, 1983.

This permit and authorization to discharge shall expire at midnight June 30, 1984.

Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of their intent to be covered by this general permit are not authorized under this general permit to discharge from those facilities to receiving waters named.

Signed this 11th day of August, 1983.

Myron Knudson, P.E.,

Director, Water Management Division.

Part I

A. Effluent Limitations and Monitoring Requirements

Serial numbers/outfalls	Effluent characteristic	Discharge limitations	Monitoring requirements	
			Measurement frequency	Sample type
101 Drilling fluids [2]	Volume	Bbl/month [1]	Once/per month	Estimate.
102 Drill cuttings [2]	do	do	do	Do.
103 Deck drainage [2]	do	do	do	Do.
104 Cooling water				
105 Desalinization unit discharge				
106 Produced waters	Flow rate, oil and grease	MGD [1]	do	Estimate.
		72 mg/l daily max	do	Grab. [3]
107 Produced sand	Quantity	Lbs/day [1]	do	Estimate.
108 Well treatment fluids [2]	Volume	Bbl/month [1]	do	Do.
109 Sanitary waste (10 or more)	Flow rate, residual chlorine	MGD [1]	do	Do.
		1.0 mg/l [4]	do	Grab.
110 Sanitary waste (9 or fewer)				
111 Domestic waste [1]				

[1] Report
[2] No discharge of free oil.
[3] May be based on four grab samples in a twenty-four hour period.
[4] Minimum of 1 mg/l and maintained as close to this concentration as possible.

Samples taken in compliance with monitoring requirements specified above shall be taken at a sampling point prior to commingling with any other waste stream or entering Gulf waters.

B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Oil-based Drilling Fluids.* There shall be no discharge of oil-based drilling fluids.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the U.S. Geological Survey.

5. *Sanitary Wastes.* Any facility using a marine sanitation device that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste discharges until such time as the device is replaced or is found not to comply with such standards and regulations.

For facilities continuously manned by nine (9) or fewer persons or only intermittently manned by any number of persons, there shall be no floating solids as a result of the discharge of these wastes.

C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken for the purpose of monitoring shall be representative of

the volume and nature of the monitored activity.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semi-submersible), the outfalls shall be designated in the following manner: 101, 102, 103 etc. for the first facility: 201, 202, 203 etc. for the second facility; etc.

If any category of waste has more than one discharge point, the limitations apply to each discharge point and shall be reported as XXXA, XXXB, XXXC, etc. (101A, 101B, 101C).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1). In addition, the annual average shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (outfall) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMRs.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required here in, shall be submitted to the Regional Administrator at the following address: Director, Water Management Division (6W), Region 6 U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250.

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

D. Reporting Requirements

1. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. *Monitoring Reports.* Monitoring results shall be reported at the intervals specified in Part I C of this permit.

3. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and , if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitations in the permit; and

(c) Violation of a maximum daily discharge limitation for any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance, listed as such by the Regional Administrator in the permit to be reported within 24 hours.

Reports should be made to telephone should be made to telephone # (214) 767-2214. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under Part I D-3 at the time monitoring reports are submitted. The reports shall contain the information listed in Part I D-3.

5. *Signatory Requirements.* All reports or information submitted to the Regional Administrator shall be signed and certified in accordance with 40 CFR § 122.6.

6. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

7. *Penalties for Falsification of Reports.* The Act provides that any

person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

E. Notification Requirements

1. *Commencement of Operations.* Written notification of comment of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of this permit,

(b) fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

2. *Termination of Operations.* Lease blocks operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

3. *Notification.* Notification submitted under Part 1 of this section, pursuant to the same numbered permit which expired on April 29, 1983, is adequate notice under this permit and no renotification is required.

Part II

A. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Mantenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxilliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce Not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Bypass of Treatment Facilities.* (a) Definitions: (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations: The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice: (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible, at least 10 days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part I D-3 (24-hour notice).

(d) Prohibition of bypass: (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against the permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxilliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph (d)(1) of this section.

4. *Upset Conditions.* (a) Definition: "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination, made during administrative review of claims that noncompliance was caused by an upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the specific cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Part I D-3 (24 hour notice); and

(4) The permittee complied with any remedial measures required under Part II B-4 (duty to mitigate).

(d) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

B. General Conditions

1. *Duty To Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Duty To Comply With Toxic Effluent Standards.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Act for toxic pollutants

within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3. *Penalties for Violations of Permit Conditions.* The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

4. *Duty To Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypasses" (Part II A–3) and "Upsets" (Part II A–4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

8. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

9. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

10. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

C. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit.* The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved; or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) In the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. *When an Individual NPDES Permit may be Requested.* (a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than December 14, 1983.

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

a. General Permit Area

The area covered by this general permit includes that portion of the central and western Gulf of Mexico located landward of the outer boundary of the territorial seas off the State of Texas LESS AND EXCEPT the lease blocks listed in Part III B hereof.

B. Exceptions

1. This general permit does not authorize discharges from facilities or activities located in the following lease blocks:

TEXAS LEASE AREAS LANDWARD OF THE OUTER BOUNDARY OF THE TERRITORIAL SEAS OF THE STATE OF TEXAS

Lease area and site name	Offshore block
Brazos Area: White Shrimp Spawning Ground	387–S.
North Padre Island: 7½ Fathom Bank	962.

C. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. This inventory shall include diesel fuel and any drilling fluid additives used to meet specific drilling requirements.

D. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Daily maximum" means the average concentration of the parameter specified during any 24-hour period that reasonably represents the 24-hour period for the purposes of sampling.

4. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs,

gutters, and drains including drip pans and wash areas.

5. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

6. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

7. "No discharge of free oil" means a discharge that does not cause a film or sheen upon or a discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

8. "Drill cuttings" means particles generated by drilling into subsurface geological formations.

9. "Drilling fluids" means any fliud sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

10. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

11. "Produced sands" means sands and other solids removed from the produced waters.

12. "Sanitary waste" means human body waste discharged from toilets and urinals.

13. The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

14. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

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[WH-FRL 2434-1]

Petition Requesting Sole Source Aquifer Designation of the "Cross Valley Aquifer," Snohomish County, Washington, and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Public comments requested.

SUMMARY: The Environmental Protection Agency, Region 10, invites public comment on a petition requesting designation of the aquifer underlying the Cross Valley Water Association Service Area, in southwestern Snohomish County, as the sole drinking water source for the area. In particular, EPA requests data and references to additional sources of information. If the aquifer is so designated, no commitment for Federal financial assistance may be entered into for any project which EPA determines may contaminate the aquifer so as to create a significant hazard to public health. EPA will hold one or more informal public meetings at locations and dates to be announced later.

DATES: Comments must be submitted on or before October 31, 1983.

ADDRESSES: Comments should be addressed to: Wendy Marshall, Environmental Protection Agency, Region 10, Drinking Water Programs Branch, M/S 409, 1200 Sixth Avenue, Seattle, Washington 98101.

The petition and related documents can be examined during normal business hours at the following locations:

Environmental Protection Agency, Region 10 Library—12th Floor, 1200 Sixth Avenue, Seattle, Washington 98101

Snohomish Public Library, First and Cedar, Snohomish, Washington 98290

FOR FURTHER INFORMATION CONTACT: Wendy Marshall at (206) 442-1890 or FTS 399-1890, or Rene Fuentes at (206) 442-1369 or FTS 399-1369.

SUPPLEMENTARY INFORMATION: On July 29, 1983, the Mount Forest Protection Association and the Cross Valley Water Association, Inc. submitted a petition requesting that the aquifer underlying the Cross Valley Water Association Service Area be designated as the sole drinking water source for the area. Significant portions of the petition are quoted below in Sections a–c.

(a) *Identification of Petitioners and Petitioners' Interest.* The Mount Forest Protection Association is an association of local citizens who depend upon the availability of clean drinking water for their family needs, livestock, agriculture usage, fish and wildlife habitat, etc. The Association was organized to promote the protection of their aquifer from pollution and contamination by such things as the Snohomish County Solid Waste Department's proposed and existing sanitary landfills, industrial and commercial development unsupported by sanitary sewers, and high-density residential development in sensitive environmental areas.

The Cross Valley Water Association is mandated by state law to plan for, monitor, and provide clean, safe drinking water to the citizens of this area. In order to ensure the present level of health and water quality for a major portion of the area's population, the Association has joined with the Mount Forest Protection Association to petition the U.S. Environmental Protection Agency to grant their mutual cooperation and support to safeguard the region's aquifer, both today and for the future.

(b) *Petitioners' Concerns Regarding Aquifer Contamination.* Contamination of the ground-water aquifer of the region, either from septic tank effluent caused by an overuse or improper location of on-site disposal systems, or from sanitary landfill leachate generated at the county's regional landfill, or from industrial wastes being deposited into the ground without the proper provision of sanitary sewers or from unwise land use activities, would constitute a major health hazard for over 10,000 people spread over an area of over 45 square miles.

Residents of the region receive water from numerous private or community wells without the benefit of regular sampling and testing for the detection of contamination. Many of these households are situated several miles from the nearest water main. In addition, the nearest water main (operated and supplied by the Cross Valley Association) is fed from the same ground-water aquifer via direct pumping and a system intertie such that any single source of well contamination will be spread throughout the entire distribution system until it can be identified by regular sampling and testing procedures or by a public health epidemic.

(c) *Demographic and Hydrologic Information.* The area aquifer provides clean, untreated drinking water via private springs, wells, community wells and the Cross Valley Water Association's six wells, reservoirs and distribution system to a service area of over 45 square miles. The geographic limits of the area extend from the Bear Creek drainage basin on the west to the Snoqualmie River on the east, and from the Snohomish River on the north to a point several miles into King County. The southeastern portion of the service area is situated within the 36-square-mile limits of the Cathcart-Maltby-Clearview (CMC) Comprehensive Plan Area. The western portion is situated within the North Creek Comprehensive Plan Area and the northwestern portion is within the Snohomish—Lake Stevens Community Comprehensive Plan Area.

The present estimated population of the aquifer service area is 10,000 people, with a population of over 8,000 people (1980) situated within the CMC planning

area. The projected population for the year 2000 of the CMC planning area is 19,600, and is estimated to be over 26,000 for the total service area. The only public domestic water purveyor for the area is the Cross Valley Water Association, with over 2,500 present service connections serving an estimated population of 7,000 people. The remaining 3,000 people are served by private individual springs, wells, or by smaller two-to-six home community wells.

The nearest water source to the Cross Valley Water Association is the City of Everett, approximately six miles to the northwest. The shortest connecting roadway (Lowell-Larimer Road) is an old roadway constructed over logs, debris, swampy and slide-prone areas. The construction of a major water main along this route would be difficult, maintenance would be high and reliability could not be insured. At the present time the City and the Cross and the Cross Valley Association do not consider the project to be feasible.

Water District #104 to the south (northern King County) does not have sufficient water mains or pressure to provide water to southern Snohomish County except in the limited immediate area just north of Woodinville. The northeastern portion of King County near Tuck Creek is within the comprehensive service area of the Cross Valley Association.

Currently, the water association is supplied by six wells; four of the wells are situated in the central portion of the region and two are located in the southeastern corner of the district. Four wells pump directly into the water distribution system and two wells receive a light dose of chlorine to neutralize hydrogen sulfide. The entire water system is intertied and operates on three different pressure zones. The current annual consumption of the association is 38 million cubic feet.

The 1982 Draft Environmental Impact Statement for the Cathcart, Maltby, and Clearview area states under section 3.1.3, "Water Resources and Water Quality":

"Water resources consist of the surface waters of Little Bear, Big Bear, Upper Snoqualmie, High Rock and Marshland Drainage Basins and the gound-water bearing formation of Esperance sands. Little Bear and Big Bear drainage basins flow south into Lake Sammamish, while the Marshland and Snoqualmie Basins flow into the Snoqualmie River.

"Each basin contains several sub-basins. These basins are classified as having excellent water quality. The continued maintenance of water quality standards is a function of the level of development and the successful implementation of policies to prevent degradation of water quality. A third source of water resources consists of several lakes, most of which are south of SR 522 or along the Snoqualmie River. The largest of these lakes are Crystal, Echo, Lost Lake (Devil's Lake) and Lake Beecher. Crystal Lake and its associated wetlands are designated as conservancy environments by the Shoreline Master Program.

"The properties of two geological formations, glacial till and Esperance sands, have important implications for the maintenance of water quality. Glacial till deposits are generally dense and hard packed, and water does not easily percolate. Surface water runoff potential is high in these areas and a ground-water table close to the surface is common. These conditions require that developments respect natural drainage patterns and incorporate design solutions that reduce runoff.

"The second most common surficial geologic deposit, Esperance sand, presents different problems. Deposits of Esperance sands are common in the planning area's drainage basins, especially Bear Creek, along SR 9; Paradise Lake Valley; the headwaters of Anderson Creek; Ricci Creek basin and the Evans Creek basin. The Esperance sand deposits are the most important ground-water source in the planning area. These deposits are also susceptible to contamination from septic tanks. The condition of these aquifers is not known."

The *1972 Ground-water Study* prepared by Robinson & Noble evaluated the *U.S. Geological Survey's Water Supply Paper #1135,* the *State Water Supply Bulletin #20,* DOE well records, a 1971 comprehensive water plan and local field experience to derive the following:

"Most of the area is an undulant drift plain with a north-south texture that is a result of glacial sculpturing. * * * The Snohomish River and its extensive flood plain border the area on the north and east.

"Principal drainage is separated by a NW–SE divide running across the area. Drainage to the north goes through numerous short tributaries, many having spring sources, to the Snohomish River.

"Drainage to the south of the main divide is through the major tributaries to the Sammamish River. These drainages carry not only the surface runoff but also most of the natural ground-water discharge.

"The subsurface geology, to an elevation of about 200 feet, is fairly well defined. At the surface is a mantle up to 75 feet thick of glacial till (hardpan). Below the till is a region-wide deposit of outwash sand or sand and gravel with moderate permeability. Most wells tap water in this unit. The water tends to be in a "water-table state", which means that it has no appreciable confining pressure. Consequently, the available potential drawdown to these wells is low. This is the Esperance sand of U.S.G.S nonenclature. The cross-sections on Figure 2 show the Esperance and its relation to well supplies.

"Water in the Esperance tends to be of satisfactory quality * * *.

"Below the Esperance is a more complex section of clay and firmly-cemented gravels that form a lower till, at least in part. Information is scant in the deeper section but at least some permeable zones do exist * * *.

"Beneath the deeper glacial deposits lies the consolidated bedrock of marine sediments and basalt. The rock surface generally dips southwesterly from exposures in the Cathcart area to a depth of about 1,000 feet near Bothell * * *.

"All of the ground water from within the drift plain originates from precipitation that falls directly on the area.

"Average annual precipitation at Monroe is 46.8 inches. Allowing 1.5 inches per month for evapotranspiration, and using only the surplus water in the October-through-May period, there remains 27 inches. If only 30% of the 27 inches infiltrates, the ground-water recharge would amount to eight inches annually. These figures are fairly conservative. A recharge of eight inches allows about 260 gpm per square mile on a continuous basis * * *.

"Streamflow data was compared for a series of measurements on Ricci, Elliott, Anderson, and Evans Creeks. All measurements were on August 23, 1957, which was a time when virtually all flow was from ground-water discharge. The flow in the first three creeks was 0.6, 0 and 0.14 cfs, whereas Evans Creek had a flow of 4.05 cfs. Obviously, the nearby ground-water basin discharges principally through Evans Creek. Much of this water may flow southerly along the bedrock contact before it discharges."

(d) *Consequences of Designation.* Section 1424(e) of the Safe Drinking Water Act states: If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that

determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project with the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

(e) *Public Meetings.* EPA will hold informal public meetings to explain the sole source aquifer program and provide the opportunity for public comment. The Regional Administrator will give widespread notice of such meetings.

Dated: September 1, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83-25154 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

[A-4-FRL 2433-7]

Prevention of Significant Deterioration of Air Quality (PSD) Determination of Exemption; Florida State Hospital, Chattahoochee, Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of PSD exemption.

SUMMARY: Notice is hereby given that the Florida State Hospital (Hospital), a nonprofit health institution, is exempt from EPA's PSD review requirements (40 CFR 52.21(j)-(r)) for the modification of Boilers 7 and 8 to burn pelletized wood at the Chattahoochee, Florida, institution.

DATES: This action is effective as of June 16, 1983, the date the Honorable Bob Graham, Governor of the State of Florida, requested the PSD exemption for the Hospital.

ADDRESSES: Copies of the letter from the Governor requesting the exemption for the Hospital are available for public inspection or upon request at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

State of Florida, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Wayne J. Aronson of the EPA Region IV, Air Management Branch, at the Atlanta address given above, telephone 404/881-7654 (FTS: 257-7654).

SUPPLEMENTARY INFORMATION: On December 6, 1982, EPA received a preliminary determination prepared by the Florida Department of Environmental Regulation (DER) for Florida State Hospital's (Hospital) proposed conversion of Boilers 7 and 8 from burning fuel oil to burning pelletized wood. The Hospital is located in Chattahoochee, Florida. This preliminary determination requested that EPA grant a PSD construction permit to the Hospital with conditions. EPA, after having reviewed the public notice, application, and Florida DER's preliminary determination, commented on this submittal on February 1, 1983. By letter dated June 16, 1983, the Honorable Bob Graham, Governor of the State of Florida, requested that the Hospital conversion project be exempt from the Federal PSD regulations pursuant to Section 169(1) of the Clean Air Act, 42 USC 7479(1), and 40 CFR 52.21(i)(4)(vi). The Hospital is eligible for such exemption upon the request of the Governor because it is a nonprofit health institution. The Hospital is therefore, exempted from EPA's PSD review requirements (40 CFR 52.21(j)-(r)) for the modification of Boilers 7 and 8 to burn pelletized wood.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1983. This action shall not be subject to later judicial review in civil or criminal proceedings for enforcement. (See Section 307(b)(2).)

Dated: August 31, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-25167 Filed 9-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. BPH-820223AB; MM Docket No. 83-937 et al.]

Applications for Consolidated Hearing; Lilly Amador et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Lilly Amador	Floydada, Texas	BPH-820223AB	83-937
B. Billy D. Pirtle	Floydada, Texas	BPH-820823AD	83-938

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Headings and Applicant(s)

1. Comparative—A, B
2. Ultimate—A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-25116 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-953; File No. BPED-810126AF et al.]

Bishop of the Diocese of St. Petersburg et al.; Hearing Designation Order

In the matter of applications of the Bishop of the Diocese of St. Petersburg, Tampa, Florida, MM Docket No. 83-953, File No. BPED-810126AF; Req: 90.5 MHz, Channel 213C, 100 kW (H&V), 960 feet (H&V); Last

Days Broadcasting, Incorporated, Bradenton, Florida, MM Docket No. 83-954, File No. BPED-810420AB; Req: 90.5 MHz, Channel 213C, 100 kW (H&V), 756 feet (H&V); for construction permit for non-commercial educational FM station.

Adopted: August 25, 1983.

Released: September 13, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by The Bishop of The Diocese of St. Petersburg (The Diocese) and Last Days Broadcasting, Incorporated (Last Days), and a petition to dismiss filed by The Diocese.

2. *Last Days.* Analysis of the financial data submitted reveals that $170,819.95 will be required to construct the proposed station and to operate it for the first three months. The applicant indicates that it has obtained signed pledges in this amount, but has provided no supporting documentation identifying the pledgors, the amounts of the pledges and financial statements demonstrating sufficient net liquid assets above current liabilities to fulfill the pledges. Accordingly, a limited financial issue will be specified.

3. Applicants for broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that either the Diocese or Last Days published the required notice. To remedy this deficiency, they must publish local notice of their respective applications, if they have not already done so, and so inform the presiding Administrative Law Judge within 30 days of the date of the release of this Order.

4. *Other Matters.* On June 14, 1982, The Diocese filed a petition, to dismiss the application of the Last Days. The Diocese alleged that Last Days amendment, filed June 1, 1982, constituted a major amendment filed after the April 15, 1982 "A" cut-off date since it showed a change in the city of license from Parrish, Florida to Bradenton, Florida. If the allegations were true, the application of Last Days would require a new file number and be unacceptable for filing as a major amendment to a mutually exclusive application after the "A" cut-off date. However, Last Days' amendment provided information relating to a community advisory board, some of whom live in Bradenton. As originally filed Last Day's application listed Parrish, Florida for "station location (transmitter and antenna)" and Bradenton, Florida for "office and studio." Section 1, Paragraph 4, FCC Form 340. Section VI of the original application is captioned "City and State which station is licensed to serve—Bradenton, Florida." Section V-B and accompanying engineering exhibits specify that the application is for Bradenton. While references throughout to Parrish (and Sarasota) render the application something less than a model of clarity, there is ample evidence on the face of the application to support Last Days' claim that the proposal was originally filed to specify Bradenton as the community of license. Moreover, the amendment filed June 1, 1982, does not indicate, directly or indirectly, that Last Days is seeking to change its community of license. Accordingly, the petition to dismiss will be denied.

5. Neither applicant has indicated an attempt has been made to negotiate a share-time arrangement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency, and thus better serve the public interest. *Granfalloon Denver Educational Broadcasting, Inc.* 43 FR 49560, published October 24, 1978. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a time-sharing issue is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement.

6. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67-673, released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

7. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Last Days:

(a) the source and availability of funds;

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether a share-time arrangement between the applicants would result in the most effective use of the specified channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

3. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the area and populations served thereby.

4. To determine in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

6. To determine which of the proposals would on a comparative basis, better serve the public interest.

7. To determine, in the light of the evidence adduced to the foregoing issues, which of the applications, if either, should be granted.

10. It is further ordered, that the Diocese and Last Days shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of the application has been published.

11. It is further ordered, that the petition to dismiss amendment filed by the Diocese is denied.

12. It is furthered ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rules and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 83-25107 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No.83-858; File No. BPH-810909AH et al.]

Debra D. Carrigan et al.; Hearing Designation Order

In the matter of applications of Debra D. Carrigan, North Las Vagas, Nevada; MM Docket No. 83-858, File No. BPH-810909AH; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1120 feet; Constance J. Wodlinger, North Las Vagas, Nevada; MM Docket No. 83-859, File No. BPH-820322AW; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1150 feet; Silver State Communications, Inc., North Las Vagas, Nevada; MM Docket No. 83-860, File No. BPH-820414AF; Req: 104.1 MHz, Channel No. 281C; 100 kW (H&V), 1160 feet; Telecommunications Partners, Ltd., North Las Vagas, Nevada; MM Docket No. 83-861, File No. BPH-820415AC; Req: 104.1 MHz, Channel No. 281C, 100 KW (H&V), 1120 feet; MCB Broadcasting of Nevada, Inc., North Las Vegas, Nevada; MM Docket No. 83-862, File No. BPH-820415AD; Req: 104.1 MHz. Channel No. 281C, 100 kW (H&V), 1270 feet; Las Vagas Electronics, Inc., Paradise, Nevada; MM Docket No. 83-863, File No. BPH-820415AM; Req: 104.1 MHz, Channel No. 281c, 100 kW (H&V) 1560 feet; Two Rivers Radio, North Las Vagas, Nevada; MM Docket No. 83-864, File No. BPH-820415AP; Req: 104.1 MHz, Channel No. 281C, 100kW (H&V), 1120 feet; New Radio, Inc., North Las Vegas, Nevada; MM Docket No. 83-865, File No. BPH-820415AZ; Req: 104.1 MHz, Channel No. 281C, 100 kW (H&V), 1600 feet; For Construction Permits.

Adopted: August 4, 1983.

Released: September 6, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Debra D. Carrigan (Carrigan); Constance J. Wodlinger (Wodlinger); Silver State Communications, Inc., (SSC); Telecommunications Partners, Ltd.; MCB Broadcasting of Nevada, Inc.; Las Vagas Electronics, Inc., (LVE); Two Rivers Radio; and New Radio, Inc. (NRI) for a new FM station to operate on channel 281C. Also before the Commission is: a timely filed petition to deny, or alternatively, to impose condition filed by Lotus Broadcasting Corp. (LBC), licensee of KOMP(FM), North Las Vegas, Nevada, against the application of NRI; and opposition to deny filed by NRI; [1] and LBC's reply thereto.

2. *Carrigan.* Applicants for new broadcast stations are required by § 73.3580(f) of the Rules to give local notice of the filing of its application. Section 73.3580(f)(9) requires that the notice include a statement that a copy of the application and amendments are on file, and available for public inspection at an address in the community in which the proposed main studio is to be located. Carrigan proposed to locate its main studio in North Las Vagas, Nevada; however, it states that a copy of its application is available for public inspection in Las Vagas, Nevada. Accordingly, Carrigan will be required to republish and advise the presiding Administratived Law Judge that it has complied with § 73.3580(f)(9) within 30 days of the release of this Order.

3. *SSC.* Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that SSC has done either. If it has not already done so, SSC will be required to file a statement that it has complied with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

4. *Other Matters.* LBC, states in its petition that the proposed location of the NRI antenna is on a tower immediately adjacent to the tower currently licensed to its station KOMP(FM). LBC alleges that NRI's proposed location may cause cross-modulation between KOMP(FM) and NRI's proposed station, as well as, pattern alternation to KOMP(FM). LBC requests that the application of NRI be dismissed unless a grant of the application is conditioned upon NRI bearing responsibility for resolution of any adverse technical effects on the operation of KOMP(FM) caused by the proximity of the proposed and existing antennas.

5. NRI in its opposition, states that it has not objection to the Commission's imposition of the normal non-interference condition in a construction permit to protect KOMP(FM). Accordingly, the grant of the NRI application will be appropriately conditioned. Additionally, we note that NRI has not made a showing pursuant to § 73.316(e) of the Commission's Rules, which requires applicants proposing to use FM broadcast antennas in the immediate vicinity (i.e. 200 feet or less) of other FM broadcast antennas to include a showing regarding the expected effect, if any, of such proximate operation. Accordingly, NRI will be required to submit to the presiding Administrative Law Judge such a showing within 30 day so of the release of this Order.

6. By amendment filed December 3, 1982,[2] LVE indicated it would divest of all interest in KNUU, Las Vegas, and Reno Electronics, Inc., a subsidiary of LVE's parent, would divest of all interest in KBET, Reno, Accordingly, an appropriate condition will be specified

7. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals.[3] Consequently, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

8. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b)

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[1] Ordinarily, a petition to deny, being in most cases the equivalent to a petition to specify issues, is not considered in the context of a hearing designation order. However, the LBC petition is more in the nature of a motion to dismiss, and accordingly, if will be addressed herein.

[2] The "B" cut-off date specified by Public Notice, "FM Broadcast Applications accepted for filing and notification of Cut-Off-Date," dated October 28, 1982, FCC Mimeo No. 425, Report No. B-33, as corrected by Erratum Public Notice, dated November 1, 1982, FCC Memeo No. 564, Report No. B-33B.

[3] Wodlinger has failed to provide data showing the population within her proposed 1mV/m contour. Accordingly, she will be required to provide such data to the presiding Administrative Law Judge within 30 days of the release of this Order.

of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for a hearing in a consolidated proceeding.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1mV/m or greater) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That Carrigan shall be required to republish local notice of the filing of its application, and file a statement with the presiding Administrative Law Judge in compliance with Section 73.3580(f) of the Commission's Rules, within 30 days of the release of this Order, showing that a copy of its application will be available for public inspection at an address within the community of North Las Vegas.

12. It is further ordered, That SSC shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of its application has been published.

13. It is further ordered, That the petition to deny or, alternatively, to impose condition filed by LBC is granted to the extent indicated and is denied in all other respects.

14. It is further ordered, That, in the event of a grant of the application of LVE, the construction permit shall contain a condition that program test will not be authorized until the permittee and Reno Electronics, Inc. have shown that they have divested of all interests in, and severed all connections with stations KNUU, Las Vegas, and KBET, Reno.

15. It is further ordered, That, in the event of a grant of the application of NRI, the construction permit shall contain the following condition:

The licensee of this station shall fully cooperate with the licensee of KOMP(FM), North Las Vegas, Nevada, whose antenna is mounted immediately adjacent to the facilities authorized herein, to eliminate or reduce the adverse effects between the two operations. The licensee of this station shall bear the responsibility for correcting any adverse effect caused to the operation of station KOMP(FM) by the operation of this station.

16. It is further ordered, That NRI shall, within 30 days of the release of this Order, file a statement with the presiding Administrative Law Judge complying with Section 73.316(e) of the Commission's Rules.

17. It is further ordered, That Wodlinger shall, within 30 days of the release of this Order, file data showing the population within her proposed 1mV/m contour with the presiding Administrative Law Judge as required by Section V–B, Paragraph 14 of FCC Form 301.

18. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83–25108 Filed 9–14–83; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–811117AP; MM Docket No. 83–934, et al.]

Applications for Consolidated Hearing; CRISTA Ministries, Inc. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. CRISTA Ministries, Inc.	Pasco, Wash.	BPH–811117AP	83–934
B. Herbert E. Cartmell	do	BPH–820623AI	83–935
C. Riverview Radio	do	BPH–820624BO	83–936

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirey in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See Appendix)	A.
2. Comparative	A, B, and C.
3. Ultimate	A, B, and C.

3. If there is any non-standardized issue(s) in this proceeding the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be otained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (CRISTA)

[1] Paragraph 8 reads as follows:
The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (CRISTA)	Financial analysis reveals insufficient liquid assets above current liabilities to meet a financial commitment of $158,950.

[FR Doc. 83-25114 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH-81020AR; MM Docket No. 83-879, et al.]

Applications for Consolidated Hearing; Minority Broadcasting Co. of the Midwest Inc. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Minority Broadcasting Company of the Midwest Inc	West Memphis, Ark.	BPH-810820AR	83-879
B. Willie Mitchell	do	BPH-810827AJ	83-880
C. Marcell's Inc	do	BPH-811016AI	83-881
D. James J. V. Scanlon	do	BPH-811027AB	83-882
E. William Janks, II and H. Rhett James DBA J & J Communications	do	BPH-820329AT	83-883
F. Armstrong Communication	do	BPH-820415BA	83-885
G. K107 Entertainment Radio, Inc	do	BPH-820415BA	83-885
H. Big Ben Communications, Inc	Marion, Ark.	BPH-820415BI	83-886

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	C and G.
2. (See appendix)	A, B, E, and G
3. Air hazard	H.
4. 307(b)	All applicants.
5. Contingent comparative	Do.
6. Ultimate	Do.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,
Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1], the applicant(s) is financially qualified: C (Marcell's), G (K107).

[1] Paragraph 8 reads as follows:
The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
C (Marcell's)	Financial qualification statement is insufficient and applicant shows only $40,000 in liquid assets.
G (K107)	Applicant has provided no financial data.

2. If a final environmental impact statement is issued with respect to A, B, E, or G (Minority, Mitchell, J & J, or K107), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-25112 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File No. BPH-820205AH; MM Docket No. 83-887, et al.]

Applications for Consolidated Hearing; McFadden Broadcasting Co., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Jack L. McFadden, Sr. and Virginia Joeselen McFadden, d.b.a. McFadden Broadcasting Company.	Twain Harte, Calif.	BPH-820205AH	83-887
B. Linda Susan Adams	do	BPH-820824AG	83-888
C. Clear Mountain Air Broadcasting Company	do	BPH-820824AM	83-889
D. Sonora Wireless Company	Sonora, Calif.	BPH-820825BD	83-890

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. 307(b)	All applicants.
2. Contingent comparative	Do.
3. Ultimate	Do.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-25111 Filed 9-14-83; 8:45 am]
BILLING CODE 6712-01-M

[File Nos. BPH-811216 AK and BPH-820624BY; MM Docket Nos. 83-932 and 83-933]

Applications for Consolidated Hearings; Virgin Islands Broadcasting Corp. and the Band B Partnership

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Virgin Islands Broadcasting Corporation	Christiansted, V.I.	BPH-811216AK	83-932
B. The B and B Partnership	do	BPH-820624BY	83-933

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	A.
2. Comparative	A and B.
3. Ultimate	A and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (VIBC)

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (VIBC)	To meet its cost of construction and operation, applicant relies upon new capital ($25,000), profits from existing operation ($20,000) and a bank loan ($22,000). However, the bank loan letter fails to meet our requirements since it lacks interest and repayment terms. In addition, one of the principals, W. M. Carpenter, proposes to lend VIBC $12,500. However, Mr. Carpenter was the president of CVC TV, Inc., which has voluntarily filed a bankruptcy action, Case No. 80-00-336(A), U.S. Bankruptcy Court, San Juan, Puerto Rico. Accordingly, the effect, if any, of the pending bankruptcy action on the applicant's financial qualifications must be determined.

[FR Doc. 83-25115 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[File Nos. BPH-820217 AC and BPH-820825BB; MM Docket Nos. 83-891 and 83-892]

Applications for Consolidated Hearing; Voice of Entertainment, Inc., and Ridgeland Broadcasting Co., Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Voice of Entertainment, Inc	Ridgeland, S.C.	BPH-820217AC	83-891
B. Ridgeland Broadcasting Co., Inc	do	BPH-820825BB	83-892

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. (See appendix)	A.
2. (See appendix)	B.
3. Comparative	A, and B.
4. Ultimate	A, and B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Voice).

Applicant(s)	Deficiency
A (Voice)	While Voice submitted a financial certification and a financial showing to substantiate its qualifications, both are defective. Voice's equipment proposal, as stated in its financial plan and CSI Electronics Inc. proposal No. 1400, dated February 1, 1982, totals $64,903.70. However, Voice also indicates equipment lease cost is $9,100 for an undetermined period of operations, and the lease letter from CSI refers to an equipment package totalling $105,144. Thus, we can not determine Voice's proposed costs of construction and operation. In addition, although Voice intends to rely on cash on hand and profits from the operation of co-owned station WJMR (AM), Ridgeland, it has not provided a current balance sheet pursuant to Paragraph 2(a), Section III, FCC Form 301 (June 1977). Accordingly, pursuant to *South Florida Broadcasting Company, Inc.*, a general financial issue will be specified.

2. If a final environmental impact statement is issued with respect to B (Ridgeland) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Section 1.1301-1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-25113 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-893; File No. 23264-CD-P-83]

Gulf Mobilphone of Alabama, Inc.; Order Designating Application for Hearing

Adopted: August 16, 1983.

Released: September 8, 1983.

In the matter of application of Gulf Mobilphone of Alabama, Inc., for a construction permit for an additional one-way frequency for Station KRS664 to operate on frequency 931.7625 MHz in the Domestic Public Land Mobile Radio Service at Mobile, Alabama.

By the Common Carrier Bureau.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the captioned application of Gulf Mobilphone of Alabama, Inc. (Gulf). Our review of the application raises a question concerning whether Gulf has demonstrated a need for an additional frequency for Station KRS664. The application has not been protested. We find the applicant to be otherwise legally and technically qualified.

2. Gulf has submitted traffic load studies for its presently authorized one-way facilities operating on frequencies 152.24 MHz and 158.70 MHz as required by § 22.516 of the Commission's rules. On the 152.24 MHz frequency the probability of blocking, using the bouncing busy hour, is 1.0. On the 158.70 Mhz frequency, the probability of blocking, using the bouncing busy hour is 0.42. Gulf indicates that it does not have any held orders for service.

3. On January 27, 1983 in a Further Notice of Proposed Rulemaking in CC Docket 20870, FCC 83-38, released February 14, 1983, the Commission adopted interim objective need standards governing one-way applications requesting an additional frequency. Pursuant to the rulemaking, a showing demonstrating blocking of .50 or better is required before an additional channel will be granted. This need standard was adopted on an interim basis for applications received after that date. Applications filed after February 14, 1983 which do not meet the interim need standards are returned as defective. Prior to the *Further Notice*, the staff had applied the .50 blocking standard in determining whether an applicant had demonstrated a sufficient need for an additional channel. If applicant did not meet that standard, its application was designated for hearing. Although the Gulf proposal meets the loading standard for the 152.24 MHz frequency, the Gulf proposal does not demonstrate that it meets the .50 blocking standard on frequency 158.70 MHz as required for the grant of an additional channel. Since the Gulf application was received on January 31, 1983, prior to the effective date of the interim need standards, we will designate it for hearing to determine whether Gulf has adequately demonstrated need for an additional frequency.

4. Accordingly, it is ordered, that the application of Gulf Mobilphone of Alabama, Inc., File No. 23264-CD-P-83, is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) To determine whether Gulf has demonstrated a need for an additional frequency for Station KRS664;

(b) To determine, in light of the evidence adduced pursuant to the need for an additional frequency issue, what disposition of the application would best serve the public interest convenience and necessity.

5. It is further ordered, that the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to this proceeding.

7. It is further ordered, that the applicant may avail himself of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 30 days of the release date hereof, a written notice stating an intention to appear on the date for hearing and present evidence on the issues specified in the Memorandum Opinion and Order.

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-25110 Filed 9-14-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of a guidance document for the evaluation of alert and notification systems for nuclear power plants and invitation for submittal of comments.

SUMMARY: The alert and notification systems guidance document, "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants," will be available for public distribution and comment on September 20, 1983. Copies will be distributed to State and local governments with nuclear power plants operating, planned, or under construction, utilities, other affected Federal agencies, and interested industry persons affected by nuclear power for review, comment, and use.

As lead Agency under a Memorandum of Understanding (MOU) with the Nuclear Regulatory Commission (NRC), the Federal Emergency Management Agency (FEMA) is responsible for the approval of public alerting and notification systems installed around nuclear power plants throughout the United States. FEMA's rule 44 CFR Part 350 creates the regulatory framework by which FEMA will evaluate and assess State and local radiological emergency plans and preparedness of which alert and notification systems are a part. The "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" was developed to elaborate upon the requirements of 44 CFR 350 as related to alert and notification systems and to provide guidance regarding the evaluation of these systems. The guide is intended to assist State and local planners and utilities in understanding standards that FEMA will use to assess the adequacy of alert and notification systems and to assist FEMA personnel in uniformly interpreting and applying the applicable planning standards and criteria from NUREG-0654/FEMA-REP 1, Rev. 1, during actual evaluations of the alert and notification systems.

This document is intended for interim use until a final edition can be published early in 1984. Comments received by FEMA on the current interim use document will be analyzed with the results being used to develop the final edition. A copy of this document may be obtained from the Federal Emergency Management Agency, P.O. Box 8181, Washington, D.C. 20024. Please reference the title of the document in your request.

Comments on this document will be received through December 1, 1983, and should be addressed to: Rules Docket Clerk, Federal Emergency Management Agency, Room 835, 500 C Street Southwest, Washington, D.C. 20472.

Dated: September 9, 1983.

Richard W. Krimm,

Assistant Associate Director, Office of Natural and Technological Hazards Programs.

[FR Doc. 83-25161 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-01-M

Offer To Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

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 1983-84 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, 1983, to September 30, 1984. 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.

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.

As of August 1, 1983, the States of Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Rhode Island, Washington, and Wisconsin, and the District of Columbia were in compliance with the statutory requirements.

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, 1983, or subsequently during the contract year.

DATES: The offer is effective upon publication in the **Federal Register.** The Contract is effective 12:01 a.m., e.s.t., October 1, 1983 for all acceptances dispatched before 12:00 p.m. (midnight), September 30, 1983. The Contract is effective 12:01 a.m., e.s.t., of the day following dispatch of the acceptance for acceptances dispatched after September 30, 1983.

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, 1984;

(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 (1983-84).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the October 1, 1983, to September 30, 1984 contract year must appear in time for acceptance by eligible insurers on or before September 30, 1983, 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 program authority to continue reinsurance beyond September 30, 1983, requires the enactment of Federal legislation currently under consideration by the Congress. Therefore, the validity of this offer is conditioned upon the enactment of the enabling legislation.

The Standard Reinsurance Contract (1983-84) 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-21), subject to all regulations promulgated thereunder and, to the terms and conditions set forth in the Standard Reinsurance Contract (1983-1984) as printed below, the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") offers to enter into the Standard Reinsurance Contract (1983-84), 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, 1983 reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., October 1, 1983. If the date and time of dispatch of the notice of acceptance are later than midnight, e.s.t., September 30, 1983, 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 shall 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 (1983-84), pursuant to the Urban Property Protection and Reinsurance Act of 1968, as amended, for the manatory 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 (1983-84), for execution and return to the Reinsurer.

Terms and Conditions of the Standard Reinsurance Contract (1983-84)

(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 control 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 or 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 aand 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 hundreds of one per centum (.25%) to an 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 calender year 1983 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 Octobrer 1, 1983, and September 30, 1984, 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 aggregate basic premiums paid or payable to the REINSURER under all such contracts for the total amount of all excess 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 1982 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 1982, the permium base for the advance premium shall be estimated by State for the period from the date of attachment of coverage to the expiration date of this contract. In no event shall the advance permium be less than $25.00 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, 1983, and September 30, 1984, 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 or before 30 days from its due date.

The aggregate basic premium, together with any additional premium which may

be due the REINSURER in accordance 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 losses 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 Calendar year 1982.

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 apprporiate (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 1982 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct permiums earned in reinsured lines for the calendar year 1983.

Section IV. Inception and expiration dates. Provided the Company has requested reinsurance by States and lines of coverage on or before September 30, 1983, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t. on October 1, 1983, and shall expire at 12:00 p.m., (midnight) e.s.t. on September 30, 1984, unless sooner terminated.

If the Company applies for coverage on or after October 1, 1983, 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 or 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 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, 1984.

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 1983. 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 1983 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 1983 shall be the direct premiums earned for the first nine months of 1984 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, 1984, 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 if 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.

Secion 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 reinsuarnce 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 1740bbb–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, 1984, 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 determinations resulting from arbitration proceedings carried out

under this section shall, upon objection by the Reinsurer or the Company, be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

Section XIII. Access to books and records. The Reinsurer and the Comptroller General of the United States, or their 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 premiums 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 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 an 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 columns 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 net 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 $1,000.00 for each State, and to a maximum figure of $3,000,000.00 per State.

(8) "Loss resulting from riot" means loss of or damage to property actually and immidiately 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 disorder" means

(A) Loss of or damage to property actually ands 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 occurrence 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%);

(1) "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 poll" 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—1749bb-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 September 1, 1983.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 83-25159 Filed 9-14-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-273]

Benj. Franklin Federal Savings and Loan Association, Portland, Oregon; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 23, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Benj. Franklin Federal Savings and Loan Association, Portland, Oregon, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25217 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-277]

Cumberland Federal Savings and Loan Association, Louisville, Kentucky; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Cumberland Federal Savings and Loan Association, Louisville, Kentucky, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, 2500 DuBois Tower, Cincinnati, Ohio 45202.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25221 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-280]

East Side Savings and Loan Association, Chicago, Illinois; Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on June 6, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved post-approval amendments to Section 17 of the Plan of Conversion of East Side Savings and Loan Association, Chicago, Illinois. The Application for Conversion has been approved by the Board by Resolution No. 81-263, dated May 18, 1981. Copies of the Application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25212 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-271]

Fidelity Federal Savings and Loan Association, Claremore, Oklahoma; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 12, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings and Loan Association, Claremore, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of

Topeka, P.O. Box 176, Topeka, Kansas 66603.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25215 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-275]

First Community Federal Savings and Loan Association, Winfield, Kansas; Final Action Approval of Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 25, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Community Federal Savings and Loan Association, Winfield, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25219 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-274]

First Federal Savings and Loan Association of Charleston, Charleston, South Carolina; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 19, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The First Federal Savings and Loan Association of Charleston, Charleston, South Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25218 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-281]

First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana; Final Action Approval of Post-Approval Amendment To Mutual-To-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on August 2, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 5 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana ("Association"). The application had been approved by the Board's Office of General Counsel pursuant to delegated authority. Copies of the application and all amendments thereto are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, Post Office Box 60, 1350 Merchants Plaza, South Tower, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25213 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-279]

Investors Federal Savings and Loan Association, El Reno, Oklahoma; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: September 9, 1983.

Notice is hereby given that on June 10, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Investors Federal Savings and Loan Association, El Reno, Oklahoma ("Association"). The application had been approved by the Board by Resolution No. 81-714, dated November 24, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25211 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-276]

Metropolitan Savings and Loan Association, Dallas, Texas; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 11, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Metropolitan Savings and Loan Association, Dallas, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25220 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-270]

Peninsula Federal Savings and Loan Association, Miami, Florida; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Peninsula Federal Savings and Loan Association, Miami, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation,

1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25214 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-272]

Tropical Federal Savings and Loan Association, Miami, Florida; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on August 12, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Tropical Federal Savings and Loan Association, Miami, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25216 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-278]

Wake Forest Federal Savings and Loan Association, Wake Forest, North Carolina; Final Action Approval of Conversion Applications

Dated: September 9, 1983.

Notice is hereby given that on September 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Wake Forest Federal Savings and Loan Association, Wake Forest, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-25222 Filed 9-14-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Merger of Bank Holding Companies; Bank of New England Corporation

Bank of New England Corporation, Boston, Massachusetts, has applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with CBT Corporation, Hartford, Connecticut. 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)).

CBT Corporation, Hartford, Connecticut, is also engaged in the following nonbank activities: general trust company activities pursuant to § 225.4(a)(4) of the Board's Regulation Y through CBT Trust Company of Florida, N.A.; commercial lending on accounts receivable and inventory pursuant to § 225.4(a) (1) and (3) of Regulation Y through CBT Financial Corporation, Hartford, Connecticut; leasing and lease financing pursuant to § 225.4(a)(6) of Regulation Y, through General Discount Corporation, Boston, Massachusetts; and real estate lending pursuant to § 225.4(a) (1) and (3) of Regulation Y through CBT Realty Corporation, Hartford Connecticut. CBT Corporation's nonbanking subsidiaries operate on a nationwide basis from offices of CBT Trust Company in West Palm Beach, Florida; General Discount Corporation in San Francisco, California, Indianapolis, Indiana, Louisville, Kentucky, Cincinnati, Ohio, Oklahoma City, Oklahoma, and Augusta, Minnesota; Lazese Financial Corporation in New York, New York, Los Angeles, California, Miami, Florida, and Chicago, Illinois. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal of the Bank of New England Corporation in the light of the nonbanking activities of CBT Corporation's subsidiaries and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 7, 1983. 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.

Board of Governors of the Federal Reserve System, September 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25103 Filed 9-14-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; NorBanc Group, Inc.

NorBanc Group, Inc., Pine River, Minnesota, 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 or more of the voting shares of Backus State Banc, Backus, Minnesota and Pine River Holding Company, Pine River, Minnesota, and thus indirectly acquire Pine River State Bank, Pine River, Minnesota. 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)).

NorBanc Group, Inc., Pine River, Minnesota, 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 Pine River Agency, Inc., Pine River, Minnesota.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency within a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Pine River, Minnesota, and the geographic areas to be served are Backus and Pine River, Minnesota. 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, 1983.

Board of Governors of the Federal Reserve System, September 9, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-25104 Filed 9-14-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; MidCon Corp. et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before the consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0626—MidCon Corporation's proposed acquisition of Mississippi River Transmission Corporation (Union Pacific Corporation, UPE).	Sept. 2, 1983.
(2) 83-0627—Conair Corporation's proposed acquisition of voting Securities of Zotos International, Incorporated.	Sept. 2, 1983.
(3) 83-0640—Borden, Incorporated's proposed acquisition of voting securities of Clover Club Foods Company.	Aug. 31, 1983.
(4) 83-0653—Peter F. Bezanson's proposed acquisition of voting securities of A & S Financial Services, Incorporated (Robert D. Short, UPE).	Sept. 2, 1983.
(5) 83-0654—ConAgra, Incorporated's proposed acquisition of voting securities of Glen Corporation (William H. Wurster, UPE).	Sept. 2, 1983.
(6) 83-0655—Lear Petroleum Corporation's proposed acquisition of voting securities of McRae Consolidated Oil & Gas, Incorporated.	Aug. 31, 1983.
(7) 83-0660—McKesson Corporation's proposed acquisition of voting securities of 3 PM, Incorporated (Robert A. Yanover, UPE).	Sept. 2, 1983.
(8) 83-0670—North State Financial Corporation's proposed acquisition of voting securities of NewBern Savings and Loan Association, Inc.	Sept. 2, 1983.
(9) 83-0669—The Krystal Company's proposed acquisition of voting securities of DavCo Food, Inc.	Sept. 6, 1983.
(10) 83-0635—Standard Oil Company's proposed acquisition of voting securities of Solarex Corporation.	Aug. 24, 1983.
(11) 83-0645—RMC Group p.l.c.'s proposed acquisition of voting securities of Metromont Materials Corporation.	Aug. 24, 1983.
(12) 83-0676—Tengelmann Warengesellschaft's proposed acquisition of assets of BAT Industries p.l.c.	Aug. 31, 1983.
(13) 83-0677—Peter F. Bezanson's proposed acquisition of voting securities of A & S Financial Services, Incorporated (Carl A. Brady, UPE).	Sept. 2, 1983.
(14) 83-0641—Harris Corporation's proposed acquisition of voting securities of Lanier Business Products.	Aug. 25, 1983.
(15) 83-0590—H. Group Holding, Incorporated's proposed acquisition of voting securities of Braniff Airways Incorporated (Braniff International Corporation, UPE).	Aug. 25, 1983.
(16) 83-0646—Preferred Savings and Loan Association, Incorporated's proposed acquisition of voting securities of Forsyth Savings and Loan Corporation.	Aug. 25, 1983.
(17) 83-0482—A. H. Belo Corporation's proposed acquisition of voting securities of six subsidiaries of The Dun and Bradstreet Corporation.	Aug. 25, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-25250 Filed 9-14-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Guidelines for Establishment of Physical Fitness Facilities in Federal Space; Update

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of responsibility.

SUMMARY: This updates the points of contact within the General Services Administration and the President's Council on Physical Fitness and Sports. This document was originally published in the **Federal Register** on December 4, 1978 (43 FR 56733).

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Quigley, Director, Assignment and Utilization Division, Office of Space Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405 (202-566-1875); or Mr. York E. Onnen, Director, Program Development President's Council on Physical Fitness and Sports, Washington, D.C. 20001 (202-272-3427).

Richard O. Haase,

Commissioner, Public Buildings Service.

[FR Doc. 83-25177 Filed 9-14-83; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Evaluation of Drosophila for Teratogen Screening; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: September 26, 1983

Time: 9:00 a.m. to 4:30 p.m.

Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226

Purpose: To review and discuss the utility of a *Drosophila* bioassay as a teratogen screen. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Ronald L. Schuler, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health,

Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, OH 45226, Telephones: FTS: 684–8357, Commercial: 513/684–8357.

Dated: September 9, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83–25171 Filed 9–14–83; 8:45 am]

BILLING CODE 4160–19–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Agency Forms Submitted to OMB for Review

AGENCY: Bureau of Land Management, Interior.

ACTION: Bureau form submitted for review to Office of Management and Budget.

SUMMARY: The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at (202) 395–7340.

Title: Assignment of Interest in a lease for Oil and Gas or Geothermal Resources

Bureau Form Number: 3000–3

Frequency: On occasion

Description of Respondents: General public, small businesses, and oil companies

Annual Responses: 60,000

Annual Burden Hours: 30,000

Bureau Clearance Officer (alternate): Linda Gibbs, 202–653–8853.

Dated: August 18, 1983.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 83–25089 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U-47982]

Exchange of Public and Private Lands in Kane County, Utah

The United States issued an exchange conveyance document to the Heaton Inter Vivos Trust Patent No. 43–83–0015, on September 6, 1983, for the following described lands pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 40 S., R. 5 W.,
Sec. 19, lot 2, W½NW¼NE¼, NW¼SE¼NW¼.
T. 40 S., R. 6 W.,
Sec. 13, W½NE¼, W½SE¼NE¼, E½W½SE¼;
Sec. 23, SW¼NE¼, E½SE¼NW¼, E½SE¼;
Sec. 24, W½SW¼, SE¼NW¼SE¼, NE¼SW¼SE¼, NW¼SE¼SE¼;
Sec. 26, W½NE¼NE¼.

Containing 479.91 acres.

In exchange for these lands the United States acquired the following described lands from the Heaton Trust:

Salt Lake Meridian, Utah

T. 40 S., R. 6 W.,
Sec. 22, E½.

Containing 320 acres.

The purpose of this exchange was to acquire the non-Federal lands valuable for livestock grazing and better range management. The public interest was well served through completion of this exchange.

The values of Federal public land and non-Federal land in the exchange were appraised at $96,000.00 respectively.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–25091 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[U-50114]

Exchange of Public and State Lands in Uintah County, Utah

The United States issued an exchange conveyance document to the State of Utah, Patent No. 43–83–0014, on August 17, 1983, for the following described lands pursuant to Section 206 of the Act of October 21, 1976 (90 Stat. 2256; 43 U.S.C. 1716):

Salt Lake Meridian, Utah

T. 9 S., R. 25 E.,
Sec. 8, lots 1, 3, S½N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 9, S½N½, S½;
Sec. 10, S½N½, S½;
Sec. 11, S½N½, S½;
Sec. 12, lots 2, 3, 4, SW¼NW¼, W½SW¼;
Sec. 13, lots 1, 2, W½NW¼;
Sec. 14, N½;
Sec. 15, N½;
Sec. 17, lots 1, 3–7, NE¼NE¼, SW¼NW¼, S½;
Sec. 20, all;
Sec. 21, lot 1, W½NE¼, SE¼NE¼, W½SE¼;
Sec. 22, lots 2, 3, SW¼NW¼;
Sec. 29, lots 1–4, N½, NE¼SW¼, SE¼.

Containing 5,499.71 acres.

In exchange for these lands, the United States acquired the following described lands from the State of Utah:

Salt Lake Meridian, Utah

T. 8 S., R. 22 E.,
Sec. 31, lot 3, NE¼SW¼, SE¼ (mineral estate only);
Sec. 32, all (mineral estate only);
Sec. 36, all.
T. 8 S., R. 23 E.,
Sec. 32, 36, all.
T. 8 S., R. 24 E.,
Sec. 32, 36, all.
T. 9 S., R. 24 E.,
Sec. 15, lots 1–4, N½, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, N½SE¼SW¼SW¼, SW¼SE¼SW¼SW¼, N½SE¼;
Sec. 29, all;
Sec. 32, NE¼NE¼, S½NW¼, S½.
T. 8 S., R. 25 E.,
Sec. 32, all;
Sec. 36, lots 1–4, W½W½.
T. 9 S., R. 25 E.,
Sec. 2, lots 1–4, S½N½, S½.

Containing 7,316.86 acres.

The purpose of this exchange is to allow consolidation of state oil shale leases and would allow the United States to acquire isolated sections of state land that adjoin public land. Also, it will help in the national development of synthetic oil.

The values of Federal public land and non-Federal land were equal.

The public interest was well served through completion of this exchange.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–25092 Filed 9–14–83; 8:45 am]

BILLING CODE 4310–84–M

[W-74453]

Exchange of Public Lands for Private Lands in Natrona and Converse Counties, Wyoming

September 7, 1983.

Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976, 43 U.S.C. 1716 (1976), the following described land has been conveyed to B B Brooks Co., Casper, Wyoming:

Sixth Principal Meridian, Wyoming

T. 32 N., R. 77 W.,
Sec. 7, lots 5, 6, 7, 9, 10, 11, and 16.
T. 33 N., R. 77 W.,
Sec. 10, SE¼SE¼;
Sec. 11, W½SW¼;
Sec. 28, SE¼SW¼;
Sec. 29, NE¼SE¼.
T. 31 N., R. 78 W.,
Sec. 21, NE¼SE¼ and S½SE¼;

Sec. 28, N½, NE¼SW¼,SW¼SW¼,and NW¼SE¼;
Sec. 29, SE¼.
T. 34 N., R. 78 W.,
Sec. 6, N½SE¼.

In exchange for the above land, the United States acquired the following described land located on Muddy Mountain from B B Brooks Co. for addition to the Bureau's Muddy Mountain Environmental Education Area, a natural area managed for public environmental education and outdoor recreational activities:

Sixth Principal Meridian, Wyoming

T. 31 N., R. 78 W.,
Sec. 7, lot 4, SE¼SW¼, and W½SE¼ NE¼;
Sec. 18, lot 1, and NW¼NE¼.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-25183 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Advisory Council Meeting and Field Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A meeting and field tour of the Arizona Strip District Advisory Council will take place on Tuesday and Wednesday, October 18–19, 1983. Departing from the District Office on Tuesday at 8:00 a.m. the Council will tour a proposed land sales area, a prescribed burn site, the Hack Canyon Uranium Mine, and wilderness areas with an overnight stay at Mt. Trumbull. The purpose of Wednesday's tour is to observe and discuss land sales scheduled for 1984, observe an Allotment Management Plan, and the Black Rock Habitat Management Plan. Leaving Mt. Trumbull at 8:00 a.m., the Council will return to St. George by 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 196 East Tabernacle, St. George, Utah 84770 (801/673–3545).

SUPPLEMENTARY INFORMATION: The trip is open to the public but interested persons must provide their own food, transportation and overnight accommodations. Anyone wishing to go on the tour is asked to notify the district manager by October 11. Public comment will be accepted at any time during the tour or written statements may be filed for the Council's consideration.

G. William Lamb,

District Manager.

September 7, 1983.

[FR Doc. 83-25182 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Casper District Grazing Advisory Board; Meeting

AGENCY: Casper District, Bureau of Land Management, Interior.

ACTION: Casper District Grazing Advisory Board meeting.

SUMMARY: The Casper District Grazing Advisory Board will meet at 9:00 a.m. on November 2, 1983 in the BLM's Buffalo Resource Area Office, 300 Spruce Street, Buffalo, Wyoming 82834. The agenda will include: FY 84 range improvement projects, Cooperative Management Agreements, and additional topics suggested by the board. The meeting is open to the public. Summary minutes will be available within 30 days after the meeting.

DATE: November 2, 1983 at 9:00 a.m.

ADDRESS: To request summary minutes or time on the agenda contact: District Manager, Bureau of Land Management, 951 Rancho Road, Casper, WY 82601. The meeting will be held at BLM's Buffalo Resource Area, 300 Spruce Street, Buffalo, WY 82834.

FOR FURTHER INFORMATION CONTACT: Laura Cockerham, (307) 261–5593.

Dated: September 9, 1983.

James W. Monroe,

Casper District Manager.

[FR Doc. 83-25179 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

District Advisory Council, Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held on October 4 and 5, 1983.

The meeting will begin at 10:00 a.m. on October 4, in the Conference Room of the Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, California.

The purpose of the meeting will be to develop a process for District Advisory Council involvement in the District's Wilderness Study Review.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the council meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Ben F. Collins,

Acting District Manager.

[FR Doc. 83-25095 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 36212]

Realty Action, Sealed/Oral, Competitive Sale of Public Land in Jackson County, Oregon

The following described parcels of revested Oregon and California Railroad Grant (O&C) land have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value:

Parcel designation	Legal description	Acreage
	Willamette Meridian, Oregon, T35S, R2W:	
A	Sec. 15, SW¼NW¼	40
B	Sec. 29, SE¼NE¼	40

The above described land will be offered for sale by public auction on Wednesday, November 16, 1983 at 1:00 p.m. in the Medford District's Oregon Room. The sale will be conducted by a combination of sealed and oral bidding. Bids may be made by a principle or a duly qualified agent. Each sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management.

Sealed bids will be considered only if received at the District Office by 12:00 noon, on Wednesday, November 16, 1983 and are for at least the appraised value. The deposit, with the sealed bids, must be for not less than one-fifth of the amount bid, and shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sale, OR 36212, Parcel A (or Parcel B)". If two or more bids for the same amount are received, the apparent high bidder will be determined by drawing pursuant to 43 CFR 2711.3–1(c). The highest sealed bid will establish the base for the oral auction to follow. Each oral bid must be in increments of fifty dollars or multiples thereof.

The highest bid price, either sealed or oral, will establish the sale price. If the sale price is determined by an oral bid, the successful bidder will be required to submit immediately a minimum deposit of one-fifth of the full bid price. Such deposit may be tendered by cash, personal check, money order, bank

draft, or any combination thereof. The remainder of the bid price will be required to be submitted within 30 days of the sale. Failure to submit timely payment shall result in sale cancellation, and the bid deposit shall be forfeited and disposed of as other receipts of sale. All unsuccessful sealed bids will be returned within 30 days of the sale.

Either or both parcels not sold pursuant to this "Notice of Reality Action" shall remain available for sale on a continuing basis until sold. The sale price shall be based on the appraised fair market value at the time of purchase. Subsequent purchases may be transacted at the Medford District Office, in person, during regular business hours.

The two parcels were identified through land use planning as not being needed for any resources program of the Bureau of Land Management or other Federal agencies. These parcels are difficult and uneconomic to manage and do not have any significant public values that warrant retention in public ownership. Sale of these parcels will allow private development within county zoning ordinances. Parcel A has physical access, but not legal; Parcel B has both physical and legal access.

Sale of the parcels has been discussed with adjoining landowners, state and county officials, and other interested parties. No objections or controversy have been raised. As a result of the public review and after reviewing coimments from adjoining private landowners, no preference right will be given.

Federal law requires that all bidders be U.S. Citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered. Proof of these requirements shall accompany all sale bids.

Patent, when issued will contain the following reservations:

1. Rights-of-way hereon for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890; 26 Stat. 391; 43 CFR Part 945.

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Subject to all valid existing rights (43 U.S.C. 1718), including:

(a) Reservation on Parcel A for a non-exclusive easement (.115 acres) to Boise Cascade Corporation under the M-660 Agreement.

(b) Reservation on Parcel B for a right-of-way (50') for Jackson County's Duggan Road.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Medofrd District Manager (address above). Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional Committees and delgations pursuant to Pub. L. 97-394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Date signed: September 9, 1983.

Hugh Shera,

District Manager.

[FR Doc. 83-25088 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47292]

Issuance of Land Sale Conveyance Document; Box Elder County, Utah

The United States issued a Land Sale Conveyance Document to Merlin B. and Kenna K. Tanner on September 6, 1983, Patent No. 43-83-0016 for the following described lands pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian Utah

T. 10 N., R. 18 W.,
Sec. 21, SE¼
Containing 160 acres.

The land was conveyed to the Tanners because of location and other characteristics, it was difficult and uneconomical for BLM to manage.

The public interest was well served through completion of this sale.

The value of the Federal land was appraised at $16,000.00 and payment was received for this amount to the United States.

Dated: September 6, 1983.

Darnell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-25093 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52422]

Sale of Public Lands in San Juan County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in San Juan County, Utah; U-52422.

The Bureau of Land Management, based upon land use plans and field examination, has determined that the following described lands are suitable for sale at no less than fair market value, under the authority of Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

Legal description	Acreage
T. 32 S., R. 23 E., SLBM, Sec. 1, Lots 4, 5, and 12, SW¼NW¼, NW¼SW¼	197.92

The above described lands will be sold at public auction by oral bid, subject to a preference right of the adjoining landowner to meet the highest bid. The sale will be held at 10:00 a.m., December 2, 1983 at the Commissioner's Room, San Juan County Courthouse, Monticello, Utah.

The terms and conditions of the sale are:

1. The sale of the land is subject to all existing rights.

2. A right-of-way is reserved to the United States for ditches and canals constructed under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. The bid will also constitute an application for conveyance ($50.00) of locatable and salable minerals. These mineral interests have no known mineral value and will be conveyed under Section 209(b) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

4. Leaseable minerals will be reserved to the United States.

5. Federal law requires that all bidders be U.S. citizens, or in case of Corporations, be authorized to own real estate in Utah. Proof of these requirements shall accompany the bid.

6. J. Ward Palmer is the owner of the following authorized permanent range improvements on the property being sold: Three Reservoirs, small barn, and

corral. If any person other than Mr. Palmer is the successful bidder on the lands being offered for sale, that person will be required to reimburse the sum of $2,500.00 which represents the adjusted value of improvement.

The sale will be by modified competitive bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the apparent high bidder. The designated bidder (adjoining landowner) will be contacted to determine if he will exercise his preference right. This will establish the successful high bidder. The successful high bidder will be required to submit the following monies by check, cash, or money order.

1. A nonrefundable deposit of twenty percent (20%) of the full bid price.

2. A payment of $2,500.00 for range improvements if necessary.

3. A nonrefundable filing fee of $50.00 for application for conveyance of minerals.

The remaining eighty percent (80%) of the full bid price shall be paid within 30 days of the sale. Failure to pay the full bid price within 30 days shall disqualify the apparent high bidder and the deposits shall be forfeited. The payment of $2,500.00 will be refunded.

All bids will be either returned, accepted, or rejected within 30 days of the sale date. The Bureau of Land Management may accept or reject any and all offers, or withdraw any land or interest in land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Utah State Director, University Club Building, 136 E. South Temple, Salt Lake City, Utah 84111. Any adverse comments will be evaluated by the State Director, who may vacate or modify this notice. In absence of any action by the State Director, this notice will represent the final determination of the Department of Interior.

Additional information is available from the Moab District Office, P.O. Box 970, Moab, Utah 84532, or the San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535.

Dated: September 9, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83-25176 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81324 B]

Sale of Public Land in Laramie County, Wyoming

September 7, 1983.

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), Orville D. Hopka and Claryce H. Sargent, trustees for the Hopka family trust, have purchased and received a patent for the following described public land in Laramie County, Wyoming.

Sixth Principal Meridian

T. 13 N., R. 60 W.,
Sec. 2, lots 5 and 6.
Containing 14.92 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-25180 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[C-12-83]

California; Filing of Plat of Survey

September 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian

T. 17 N., R. 9 E.

2. This supplemental plat showing amended lottings in the SE¼, section 1, T. 17 N., R. 9 E., MDM, California, was accepted August 9, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-25094 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[C-11-83]

California; Filing of Plat of Survey

September 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, Calif. immediately:

Mount Diablo Meridian

T. 22 N., R. 13 E.

2. This supplemental plat showing amended lottings in the SE¼, section 30, T. 22 N., R. 13 E., MDM, California, was accepted August 9, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Dated: September 7, 1983.

Herman J. Lyttge,

Records & Information Section.

[FR Doc. 83-25173 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 7065 WR, CA 7565 WR, SAC 054809 WR, SAC 080236 WR]

California; Proposed Continuation of Withdrawal of Lands; Partial Continuation of Withdrawal of Lands; Opportunity for Public Hearing

September 6, 1983.

As a result of the reviews made pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754; 43 U.S.C. 1714), the Bureau of Land Management, Department of the Interior, proposes to continue in their entirety two existing withdrawals of land on 780 acres, and partially continue two other existing withdrawals of land on 2,822.22 acres. The lands involved are located within the Tahoe National Forest and were withdrawn for use of the U.S. Bureau of Reclamation in connection with the Washoe and Truckee River Storage Reclamation Projects.

The following described withdrawals of land are proposed for continuation in their entirety for a period of 50 years:

Mount Diablo Meridian

CA 7565 WR

1. Secretarial Order of October 18, 1940

T. 18 N., R. 16 E.,
Sec. 24, S½;
Sec. 26, S½NW¼ and N½S½.

The areas described aggregate 560 acres in Nevada County.

SAC 080236 WR

2. Public Land Order No. 4282 of September 18, 1967

T. 19 N., R. 16 E.,
Sec. 26, NW¼NW¼ and N½SW¼NW¼;
Sec. 34, N½N½.

The area described aggregate 220 acres in Sierra County.

The following withdrawals are proposed for continuation for a period of 50 years insofar as the lands indicated are affected:

Mount Diablo Meridian

SAC 054809 WR

1. Public Land Order No. 2225 of December 16, 1960

T. 19 N., R. 16 E.,
Sec. 26, S½SW¼NW¼.

The area described contains 20 acres in Sierra County.

CA 7065 WR

2. Secretarial Order of March 24, 1934

T. 18 N., R. 17 E.,
Sec. 4, E½ of lot 1 of the NW¼, and E½ of lot 2 of the NW¼;
Sec. 8, E½, NW¼, and E½SW¼;
Sec. 10, SW¼SW¼;
Sec. 20, NE¼, E½NW¼, NW¼NW¼, and NE¼SW¼;
Sec. 30, lots 1 and 2 of the NW¼.
T. 19 N., R. 17 E.,
Sec. 18, lots 1 and 2 of the NW¼ and lots 1 and 2 of the SW¼;
Sec. 19, N½ of lot 1 of the NW¼, lot 2 of the NW¼, N½ of lot 1 of the SW¼, N½ of lot 2 of SW¼ and E½;
Sec. 20, W½E½ and W½;
Sec. 28, NW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 30, NE¼NE¼, SW¼NE¼, SE¼NW¼, and NW¼SE¼.

The area described aggregate 2,802.22 acres in Sierra and Nevada Counties.

The subject withdrawals segregate the lands from operation of the public land laws generally, including the mining laws. The lands have been and would continue to be open to applications and offers under the mineral leasing laws. No change in the segregative effect of the withdrawals or use of the land is proposed.

Notice is hereby given that an opportunity for a public hearing is aforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal continuations must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16.B. In addition, for a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer of the Bureau of Land Management.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources, and will review the withdrawal rejustification to ensure that, (1) continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; (2) the areas involved are the minimum essential to meet the desired needs; (3) the maximum concurrent utilization of the lands is provided for; and (4) an agreement is reached on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether, and for how long, the continuation of the existing withdrawals is justified. The determination of the Secretary will be published in the **Federal Register.**

All communications in connection with this proposed withdrawal continuation and opportunity for public hearing should be addressed to the undersigned officer, Bureau of Land Management, California State Office, E-2841, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 83-25090 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Gulf Oil Exploration and Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities its proposes to conduct on Lease OCS-G 5603, Block 132, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekends 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 9, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-25181 Filed 9-14-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the sixth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on October 11 and 12, 1983.

The purpose of the meeting is to assist AID in implementing the components of the Title XII program by providing a two-way communications link for concerns of AID and concerns of the universities. The meeting will be addressing several of the issues identified in JACARD's "Program of Work Plan for 1983" including the Collaborative Research Support Program (CRSP) and Participant Training issues.

JCARD will meet from 1:00 p.m. to 5:00 p.m. on October 11 and from 9:00 a.m. to 5:00 p.m. on October 12. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632-8532.

Dated: September 7, 1983.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 83-25193 Filed 9-14-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-164]

Certain Modular Structural Systems; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 8, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of FOGA Systems Div. of R. C. Dudek & Company, Inc., 31260 Cedarvalley Drive, Westlake Village, California 91326. Addenda to the complaint were filed on August 24, 1983 and September 1, 1983. The complaint and the addenda thereto allege unfair methods of competition and unfair acts in the importation of certain modular structural systems into the United States, or in their sale, by reason of alleged (1) infringement of claims 1, 2, and 3 of U.S. Letters Patent 4,334,797; (2) infringement of claims 1 and 2 of U.S. Letters Patent 3,672,710; (3) infringement of U.S. Letters Patent Des. 263,676; and (4) false representation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 7, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain modular structural systems into the United States, or in their sale, by reason of alleged (1) infringement of claims 1, 2, and 3 of U.S. Letters Patent 4,334,797; (2) infringement of claims 1 and 2 of U.S. Letters Patent 3,672,710; (3) infringement of U.S. Letters Patent Des. 263,676; and (4) false representation, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—FOGA Systems Div. of R. C. Dudek & Company, Inc., 31260 Cedarvalley Drive, Westlake Village, CA 91326.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Otto Fastening Systems, Ltd., 16936 110 Ave., Edmonton, Alberta, Canada t5P 1G9

Otto-matic, Robert Witmeyer, 1804 14th Street #4, Santa Monica, CA 90403

Mars Materials, Inc., 16 Yonge St., S.E., Atlanta, GA 30212

Sugar Creek Studios, Inc., 16 Yonge St., S.E., Atlanta, GA 30212

Phil Gabel, 511 Opatrny Drive, Fox River Grove, IL 60021

Diamond Distributor, Inc., 16612 Burke Street, Huntington Beach CA 92647

Outwater Plastics, Inc., 99-101 President Street, Passaic, NJ 07055

(c) Lynn I. Levine, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Lynn I. Levine, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-0419.

By order of the Commission.

Issued: September 12, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-25184 Filed 9-14-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket 30281]

Rail Carriers; Norfolk and Western Railway Co.;—Purchase (Portion) Chicago Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration and proceedings scheduled.

SUMMARY: The Commission is accepting for consideration the application of Norfolk and Western Railway Company to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located in Chicago, IL. The Commission is also setting a schedule for the proceeding, and will issue a final decision by October 17, 1983.

DATE: Sworn statements supporting or opposing the application or seeking other relief must be filed and served on applicants September 26, 1983. Sworn statements in response must be filed and served on applicants October 5, 1983.

ADDRESSES: An original and 10 copies of all statements referring to Finance Docket No. 30281 should be sent to: Secretary, Interstate Commerce Commission, Washington, DC 20423, Attention: Norfolk and Western Railway Company.

One copy should be sent to the Attorney General and the Secretary of Transportation of the United States and to Applicant's representative: William C. Wooldridge, Norfolk Southern Corporation, One Commercial Plaza, Norfolk, VA 23510.

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

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25139 Filed 9-14-83; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-64]

Passenger Train Operation; Union Pacific Railroad Co.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks at Gray Rock, California, are temporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Bieber, California, and Sacramento, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Bieber, California, and a connection with Southern Pacific Transportation Company (SP) at Sacramento, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 1:30 p.m., September 5, 1983 (E.D.T.).

(e) *Expiration date.* The provisons of this order shall expire at 11:59 p.m., September 6, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 6, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 25138 Filed 9-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6; Sub-No. 162]

Burlington Northern Railroad Company; Abandonment in Custer, Pennington and Lawrence Counties, SD; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line of railroad extending from milepost 44.61 near Custer to milepost 106.87 at the end of the line near Deadwood (including Kirk to Fantail and Fantail to Lead), a distance of 65.70 miles, in Custer, Pennington and Lawrence Counties, SD. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-25323 Filed 9-14-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in

compliance with 5 U.S.C. 4314(c)(4). This announcement supersedes the announcement published in the **Federal Register** of August 10, 1983.

ADDRESS: Comments should be addressed to Director, Division of Personnel and Management, National Science Foundation, Room 212, 1800 G Street, NW., Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Mr. John Wilkinson or Ms. Patricia Bond at the above address or (202) 357-7857.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Permanent Membership

Deputy Director (Vacant), Chairperson
Thomas Ubois, Assistant Director for Administration, Acting Chairperson and Executive Secretary

Rotating Membership

Ruth L. Greenstein, Associate General Counsel for Policy (3 years)
Harvey Willard, Head, Nuclear Science Section, Division of Physics, Directorate for Mathematical and Physical Sciences (3 years)
Carl T. Hall, Deputy Assistant Director for Engineering (3 years)
James Fred Hays, Director, Division of Earth Sciences, Directorate for Astronomical, Atmospheric, Earth and Ocean Sciences (3 years)
Richard R. Ries, Director of Operations and Analysis, Directorate for Scientific, Technological, and International Affairs (2 years)
Frank P. Scioli, Jr., Head, Political and Policy Sciences section, Division of Social and Economic Sciences, Directorate for Biological, Behavioral, and Social Sciences (2 years)

Dated: September 9, 1983.

Jeff Fenstermacher,

Director, Division of Personnel and Management.

[FR Doc. 83-25145 Filed 9-14-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

Carolina Power & Light Co.; Granting of Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Carolina Power and Light Company, which revised the inservice inspection program for the H. B. Robinson Steam Electric Plant No. 2 located in Hartsville, South Carolina. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of.

This action provides relief from performing surface and volumetric examinations of the welds on certain class 1 components, class 2 components. Alternate examination or tests have been proposed and accepted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Carolina Power and Light Company dated August 5, 1977, October 25, 1978, March 22, 1982 and September 17, 1982, (2) the letter to Carolina Power and Light Company dated August 31, 1983, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of August, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-25240 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating License and Proposed No Significant Hazards Consideration Determinations and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina. These amendments were requested by the licensee in a letter dated August 1, 1983.

One amendment would change Technical Specification 4.3.1.1.2.d. to permit certain diesel generator surveillance testing during each shutdown for refueling rather than during shutdown at least once each 18 + 25% (22½) months. The change would allow a diesel generator surveillance test on Unit 1 that currently is required by October 27, 1983, to be delayed until the refueling outage scheduled for January 1984 and future tests on both units to be scheduled on a refueling-outage rather than on a calendar-months basis.

A second amendment would change Technical Specification 4.3.4.2.a. to permit the cycling of certain turbine valves in the Turbine Overspeed Protection System on a monthly rather than on a weekly basis, consistent with the recommendations of the turbine manufacturer.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Because the increase in diesel generator surveillance test intervals under the amended technical specification will be small compared to

the allowed interval under the current technical specification, the proposed amendment to Technical Specification 4.8.1.1.2.d. does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in operating conditions will result from the increase in the surveillance test interval, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

That no failures to function have occurred during previous surveillance testing of turbine valves on Units 1 and 2 provides confidence that the proposed increase in the surveillance test interval in Technical Specification 4.3.4.2.a. does not involve a significant increase in the probability or consequences of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in operating conditions or accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not create the possibility of a new or differenct kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the increase in the surveillance test interval, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated. On these bases, the NRC staff proposed to determine that these amendments do not involve significant hazards considerations.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By October 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If requests for hearings or petitions for leave to intervene are filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petitions and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director,

U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 9th day of September 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-25241 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, 50-287]

Duke Power Co. (Oconee Nuclear Station, Units 1, 2 and 3); Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 (Oconee or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Oconee County, South Carolina.

II

Section III.G.3 of Appendix R to 10 CFR Part 50 requires that an alternative or dedicated shutdown capability and its associated circuits be provided at a site. Section III.L.2 of Appendix R to 10 CFR Part 50 more specifically requires that with regard to the alternative and dedicted shutdown capability, the process monitoring function shall be capable of providing direct readings of certain process variables. In the case of Oconee, under this provision, remote instrumentation for source range flux monitoring (SRM) and steam generator (SG) pressure indication would be required outside and independent of the control room for the process monitoring function in achieving and maintaining safe shutdown conditions.

III

The licensee has provided a standby shutdown facility (SSF) which is physically removed from the main plant structures and can be electrically independent from the main plant power supply. The licensee has stated that all functions necessary to achieve and maintain stable hot shutdown conditions can be accomplished from the SSF in the event of a loss of all AC power after transfer of control from the normal plant power source to the SSF power source.

On June 8, 1983, an appeals meeting between the licensee and the NRC staff was conducted regarding the licensee's proposal for relief from the requirements of providing remote SRM and SG pressure indication. Subsequent to the appeals meeting, by letter dated July 15, 1983, the licensee requested an exemption from Section III.L.2 of Appendix R to 10 CFR 50 regarding the need for remote SRM and SG pressure indication.

A. Steam Generator Pressure

The licensee has stated that controlled reactor coolant system (RCS) heat removal for hot shutdown can be directly monitored by RCS parameters and controlled by SG level without SG pressure indication, provided that SG pressure is regulated. SG pressure is to be regulated by the main steam code safety valves, which will relieve at their setpoints. RCS conditions can be monitored by primary coolant temperature and pressure, pressurizer level and SG level. Should RCS overcooling occur, corrective actions can be taken from the SSF to reinstate proper cooling which include regaining correct SG level in order to restore T cold. The SSF is designed to achieve and maintain a hot shutdown condition for one or more of the three Oconee units. The SSF is not designed to bring the reactor from hot shutdown to cold shutdown. Cold shutdown will be achieved and maintained through the use of existing plant systems and equipment.

B. Source Range Flux Monitor

The licensee has stated that the SSF is designed to achieve and maintain hot shutdown conditions for any or all of the Oconee units. Prior to leaving the Unit 1/2 or Unit 3 control room, all control rods for the unit under consideration are required to be inserted. Further, when control is transferred to the SSF, deboration is automatically terminated. No nonborated sources tie into the SSF makeup/boration flow path. RCS makeup and boration (2000 ppm) following transfer to the SSF is from the spent fuel pool. Thus, boron dilution events are highly unlikely.

C. Conclusions

Based on our evaluation of the licensee's presentation and our review of the subject material, we conclude that Oconee Units 1, 2, and 3 can achieve and maintain controlled cooling to hot shutdown conditions safely from the SSF without the need for remote SG pressure instrumentation, and, thus, this instrumentation for the Oconee Nuclear Station is not required. We further conclude that a safe and stable plant hot shutdown condition can be achieved and maintained from the SSF without the use of a remote SRM, and, thus, this instrumentation for the Oconee Nuclear Station is likewise not required. The NRC staff agrees with the licensee's assessment that adequate instrumentation is available for controlled heat removal from the RCS without indication of SG pressure. The staff further agrees with the assessment that, since boron dilution is highly unlikely when control is transferred to the SSF, the remote SRM is not necessary. Therefore, the NRC staff considers that the objectives of Sections III.G.3 and III.L.2 of Appendix R to 10 CFR Part 50 are met and the licensee's request to be exempted from the requirement to provide remote SRM and SG pressure instrumentation in the SSF should be granted.

IV

Accordingly, the Commission has determined that, pursuant, to 10 CFR 50.12, an exemption is authorized by the law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need

not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 31st day of August 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-25242 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

Florida Power and Light Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power and Light Company (FP&L), Orlando Utilities Commission of the City of Orlando, Florida and Florida Municipal Power Agency (the Licensees), for operation of the St. Lucie Plant, Unit 2, located in St. Lucie County, Florida.

In accordance with the licensee's application dated July 5, 1983, the amendment would change the Technical Specifications for St. Lucie 2 to decrease the frequency of testing the valves in the turbine overspeed protection system from every seven days to once per month.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The seven-day test schedule required for the Technical Specification was based on a recommendation from the turbine vendor to ensure reliability of operation. The turbine vendor has formally changed their test schedule recommendation to monthly citing good operating experience and no significant difference in the valve failure rate between valves tested weekly and those tested monthly.

The change in testing frequency does not create the possibility of a new different kind of accident from any accident previously evaluated because it does not modify the configuration of the plant or the manner in which it is operated.

There is no reduction in the margin of safety expected because of the reduction of this testing frequency, since the valve reliability or failure rates remain unaffected when the testing frequency was increased from weekly to monthly. Therefore, based on this consideration and the three criteria cited above, it is determined that this amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received with 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing. Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By October 17, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the

expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esq., Lowenstein, Newman, Reis, Axelrad & Toll, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 7th day of September, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-25243 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-46, issued to Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska.

The amendment would revise the operating license and the provisions in the Technical Specifications relating to changes to permit reactor operation at power levels of 50% of rated power with one recirculation loop out of service. Presently, the Cooper Nuclear Station operating license requires plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The change proposed by the licensee would delete this license condition and modify the Technical Specifications (TSs) to provide for: appropriate Average Power Range Monitor (APRM) flux scram trip and rod block settings; an increase in the safety limit Minimum Critical Power Ratio (MCPR) value; revisions to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop; and the inclusion of APRM flux and core plate pressure drop limits during single loop operation; in accordance with the licensee's application for amendment dated August 5, 1980 as modified by May 6 and July 28, 1982 submittals.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 17, 1983, the licensee may file a request for a heaing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. the petition would specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 377 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 5, 1980 as modified by May 6 and July 28, 1982 submittals, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 188 15th Street, Auburn, Nebraska 68601.

Dated at Bethesda, Maryland this 7th day of September, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 83-25244 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Confirming Licensee Commitments on Pipe Crack Related Issues

I

The Nebraska Public Power District (NPPD, the licensee) is the holder of Facility Operating License No. DPR-46 which authorizes operation of the Cooper Nuclear Station (CNS, the facility) at steady-state reactor power levels not in excess of 2381 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

During the current refueling outage of Cooper Nuclear Station augmented inservice inspection was performed on the reactor recirculation, and residual heat removal (RHR) systems in accordance with Office of Inspection and Enforcement Bulletin 83-02. The original sample size was expanded to include 100% of the stainless steel welds in these piping systems after ultrasonic indications were reported on welds in the original sampling. In addition, as a result of two pin hole leaks found in the Reactor Water Clean-Up System (RWCU) during removal of insulation to perform other drywell work the licensee inspected all the stainless steel RWCU system and Core Spray (CS) piping welds except for seven welds on piping in the RWCU system replaced with the same material less than ten months ago. One of the seven welds was examined to provide additional justification for not examining the remaining six welds. No rejectable indications were found on this weld.

The results of the UT examinations indicated that a total of 49 welds out of 169 inspected had reportable linear indications. The licensee submitted a flaw evaluation, performed by General Electric, on each of the 49 defective welds by using the methodology provided in the new ASME Code Section XI IBW-3600. The results of the evaluation indicated that the final crack sizes due to IGSCC and fatigue crack growth in the 6 larger diameter defective welds (1 22-inch weld and 5 28-inch welds) and 1 12-inch riser defective weld at the end of an 18-month fuel cycle are well within the Code limits and are acceptable for continuing service for an 18-month fuel cycle (12,000 hours) without repair. GE's evaluation also shows that the 13 12-inch riser welds, 15 10-inch core spray welds and 12 6-inch RWCU welds required weld overlay repair for continued service because their calculated final cracks exceed the new Code limits at the end of an 18-month fuel cycle.

We have reviewed the licensee's submittals, including GE's analysis of weld overlay design and the calculation of IGSCC crack growth to support the continuing service for an 18-month fuel cycle, considering the 42 overlay repaired welds and the 7 unrepaired defective welds in the recirculation system.

We have performed independent calculations of the IGSCC crack growth in the 7 unrepaired welds. Our calculations showed that the crack growth was conservatively calculated, based on a cylindrical model of a 28-inch pipe, assuming a 360 degrees circumferential flaw with an initial flaw depth of 40% and a sustained stress of 10 ksi. Because of the use of the worst crack size and sustained stress in the model, the IGSCC crack growth in the 7 unrepaired welds was bounded by this calculation. The crack growth rate curve we used in our calculations is similar to that used by GE. Our calculations have shown that the initial fully circumferential crack of 40% wall thickness will grow to a depth of 52% wall thickness at end of an 18-month fuel cycle (12,000 hours). The final flaw size meets the new Code allowable limit with adequate margin. Therefore, we concur in GE's conclusion that continuous operation for an 18-month fuel cycle (12,000 hours) with the 7 defective welds in the unrepaired condition can be justified because the Code required safety margin as adequately maintained. The bases for our conclusion are:

(1) Six of the seven defective welds have flaws not exceeding 20% of wall thickness. Four of the seven unrepaired welds have very short flaws (less than 5% of the circumference).

(2) UT personnel from GE of San Jose have demonstrated excellent pipe crack sizing capability in the recent round-robin UT test held in the EPRI NDE Center, Charlotte, North Carolina. An examination of the EPRI round-robin test results shows that GE personnel from San Jose conservatively sized 12 of the 14 flaws examined including a flaw with about 75% of wall thickness in depth. Therefore, we consider the UT

sizing data reported for Cooper are not significantly in error.

(3) The large Code acceptable flaw depth for a fully circumferential flaw we calculated provides additional safety margin in the structural integrity of the 7 unreinforced welds.

(4) An NRC Region IV inspector reviewed GE's welding procedures, weld process specification, procedure qualification record, welding procedure specification and observed a portion of the weld overlay repair. The inspector determined that the procedures are consistent with ASME Code requirements and that acceptable repair work was performed.

General Electric's overlay design analysis was based on the conservative assumption that all cracks are through wall cracks. Consequently its analysis did not depend on any assumptions concerning UT sizing and the IGSCC crack growth rate because neither parameter needed to be considered in this analysis. The required minimum overlay thickness for each defective weld was calculated by using the methodology allowed in the new ASME Code Section IWB 3600 to meet the required Code safety margin.

We reviewed the weld overlay design calculation made by GE. We agree with its conclusion that the overlay used will provide adequate reinforcement with Code required safety margin for at least the next 18-month fuel cycle (12,000 hours).

GE also performed an evaluation of the overlay shrinkage effect for the licensee using a finite element model of the recirculation piping system. GE indicated that the maximum calculated nominal stress due to the weld shrinkage in the recirculation system is well below the Code allowable value of the yield strength of the material. We agree that the subject shrinkage stresses should not have any significant deleterious effect on the recirculation system.

III

Although the calculations discussed above indicate that the cracks in the forty-two overlay repaired welds and seven as-is welds will not progress to the point of leakage during the next fuel cycle, and margins are expected to be maintained such that crack growth will not compromise safety, uncertainties in crack sizing and growth rate still remain.

Because of these uncertainties, we have determined that improvements in the monitoring in the containment for unidentified leakage are required; therefore, new limiting conditions for operation and surveillance requirements have been developed. These enhanced surveillance measures will provide adequate assurance that possible cracks in pipes will be detected before growing to a size that will compromise the safety of the plant.

The staff also has some concern regarding the long-term growth of IGSCC cracks and its effect on the long-term operation of the plant. Therefore, we will require that plans for corrective action or modification including replacement of the recirculation and other reactor coolant pressure boundary piping systems during the next refueling outage be submitted for staff review at least three months before the start of the next refueling outage.

By letter dated August 25, 1983, the licensee committed to the above described conditions on leakage monitoring and early submittal of inspection and/or modification plans. I have determined that the health and safety requires that these commitments should be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Section 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that:

1. The licensee shall operate the reactor in accordance with the present requirements on coolant leakage in Sections 3.6.C and 4.6.C of the Technical Specifications, as modified by Attachment A to this Order.

2. Plans for corrective actions and/or modification, including replacement of the recirculation and other reactor cooling pressure boundary piping systems during the next refueling outage shall be submitted for NRC review at least three months before the start of the next refueling outage.

3. The Director, Division of Licensing, may in writing relax or terminate any of the above provisions upon written request from the licensee, if the request is timely and provides good cause for the requested action.

V

The licensee may request a hearing within twenty (20) days of the date of publication of this Order in the **Federal Register.** Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. A request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 1st day of September, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

ATTACHMENT A

Limiting conditions for operation	Surveillance requirements
C. Coolant Leakage: 1. Any time irradiated fuel is in the reactor vessel and reactor coolant temperature is above 212°F, reactor coolant leakage into the primary containment from unidentified sources shall not exceed 5 gpm. In addition, the identified reactor coolant system leakage into the primary containment shall not exceed 25 gpm. 2. The containment atmospheric radiation monitor and the containment atmospheric sampling systems shall be operable during reactor power operation. From and after the date that one of these systems is made or found to be inoperable for any reason, reactor power operation is permissible only during the succeeding 30 days unless the system is made operable sooner. 3. If the specifications 3.6.C.1 & 2 cannot be met, an orderly shutdown shall be initiated and the reactor shall be in a Cold Shutdown Condition within 24 hours. 4. After the first 24 hours in the run mode following startup, reactor coolant system leakage into the primary containment from unidentified sources shall be limited to a 2 gpm increase within the previous 24-hour period. If this specification cannot be met, identify the source of leakage or be in a Cold Shutdown Condition within 24 hours.	C. Coolant Leakage: 1. Reactor coolant system leakage shall be checked by the air sampling system and recorded at least once per day. 2. Reactor coolant system leakage shall be checked by the sump system and recorded at least once per 4 hours.

ATTACHMENT A—Continued

Limiting conditions for operation	Surveillance requirements
5. The sump flow measuring system shall be operable during reactor power operation. From and after the time that this system is made or found to be inoperable for any reason, reactor power operation is permissible only during the succeeding 24 hours unless the system is made operable sooner.	

[FR Doc. 83-25245 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co., et al.;[1] Millstone Nuclear Power Station, Unit 3; Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Construction Permit No. CPPR-113. The amendment reflects the transfer of ownership shares in Millstone-3 as follows:

From	To	Ownership interest to be transferred
Connecticut Light and Power Company	Vermont Electric Generation and Transmission Cooperative, Inc.	0.0375% (0.431 MW).
Western Massachusetts Electric Company	Vermont Electric Generation and Transmission Cooperative, Inc.	0.1125% (1.294 MW).

The amendment reduces the ownership share in Millstone-3 to be transferred from Connecticut Light and Power Company and Western Massachusetts Electric Company from 0.6000% (6.90 MW) as authorized in Amendment No. 8 to CPPR-113 to 0.150% (1.725 MW). The amendment also reflects the fact that the purchase of ownership shares by Massachusetts Municipal Wholesale Electric Cooperative, Vermont Public Power Supply Authority, and Washington Electric Cooperative, Inc., which was also authorized by Amendment No. 8, did not take place.

This notice also reflects the fact that on June 30, 1982, The Hartford Electric Light Company ("HELCO"), formerly a lead participant in Millstone-3, merged with and into its affiliate, Connecticut Light & Power Company ("CL&P"). On that date, CL&P succeeded to all of the rights and obligations with respect to HELCO's 18.200% ownership interest in the Unit. Amendment No. 10 to CPR-113 reflects this merger. As a result of the merger, CL&P will own 51.571% interest in Millstone-3 upon completion of all transactions approved in Amendment No. 10 and prior amendments.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment, dated August 17, 1983; (2) Amendment No. 11 to Construction Permit CPPR-113; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. Item (2) may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of August 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83-25246 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

[1] The following are the holders of Construction Permit No. CPPR-113: Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Northeast Nuclear Energy Company, Public Service Company of New Hampshire, The United Illuminating Company, Vermont Electric Cooperative, Inc., The Village of Lyndonville Electric Department, Western Massachusetts Electric Company, and Vermont Electric Generation and Transmission Cooperative, Inc.

PRA Review Manual; Availability for Public Comment

September 7, 1983.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of the draft of the PRA Review Manual for public comments.

SUMMARY: The Nuclear Regulatory Commission has issued for public comments a draft of the "PRA Review Manual." This manual has been developed in response to Item II.C.2 of the "TMI-2 Action Plan", (NUREG-0660), and it aims at providing guidance in reviewing PRA studies submitted to NRC for evaluation. It is written to enhance the consistency of the review process and to provide the NRC reviewer with systematic guidance as well as insights and lessons learned from previous PRA studies and reviews of these studies.

The present scope of the manual covers Level 1 PRA (evaluations and analyses of contributors to core-damage frequency excluding external events). From within this defined scope, the manual guides the reviewer in defining and evaluating strengths and weaknesses in the plant design and operations from a risk/safety significance viewpoint. Plans are currently underway for adopting a more encompassing approach by extending the manual scope to include consideration of external events.

The approach adopted in the manual comprises three sequential phases; the screening phase, the qualitative evaluation phase, and the verification phase. This approach offers flexibility in defining an appropriate level of effort for reviewing PRAs based on NRC review objectives. Another attractive feature of the phased approach is that it allows timely and effective interaction between NRC and the utilities.

Phase 1 (the screening phase) of the manual examines the form, composition and content of the submitted study for completeness and scrutability and then endeavors to identify noteworthy and distinctive aspects of the data and methods used and the reported results, particularly in light of NRC concerns and interests. This necessarily involves some comparison with the existing aggregate of PRA studies. The NRC reviewers are asked to cast Phase 1 conclusions in a special format. In case a particular study feature is identified (or suspected to be important), it will be listed together with its potential root causes. Typical root causes include methodology, assumptions, design features, operational features, and data base used. Findings of this phase will indicate to what extent the PRA can usefully be subjected to further investigation and detailed examination.

Phase 2 (the qualitative examination phase) involves an extensive investigation of the PRA study tasks in a natural logical sequence. The investigation focuses on methodologic questions in each task and on examining distinctive aspects of the study as revealed in Phase 1 review. Phase 2 review will allow exploration of all but the most computation intensive aspects of the study. A typical phase 2 task (e.g., success criteria or treatment of human factors) is structured to include:

a. a brief discussion of the methodology and state-of-the-art of the area under review;

b. stepwise instructions about how to conduct the review,

c. examples of typical pitfalls and limitations in the treatment of this area as revealed from previous review experience, and

d. review results.

Phase 3 review focuses the reviewer's attention on safety significance of specific issues that may require regulatory actions. It may involve verification of accident sequence quantification and associated uncertainty and sensitivity analyses.

The manual will be subject to periodic update to accommodate public and peer review comments and to supplement the test with experiences resulting from its application.

Public comments are being solicited on the draft Manual and should be sent to Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 no later than 30 days following the date of issuance of this notice.

Copies of the manual are available for inspection, and copying for a fee, in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. For further information contact Adel El-Bassioni, Reliability and Risk Assessment Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 492-7646.

Dated at Bethesda, Maryland this 2nd day of September, 1983.

Ashok C. Thadani,

Chief, Reliability and Risk Assessment Branch, Division of Safety Technology.

[FR Doc. 83-25247 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on September 28, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

The Panel will discuss GPUN efforts to refurbish the TMI-2 polar crane. Organizations or individuals that have specific questions related to the polar crane refurbishment and would like to have them considered or addressed by the Advisory Panel can send these questions to Mr. John Minnich, Chairman, Dauphin County Courthouse, P.O. Box 1295, Harrisburg, Pennsylvania 17108.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492-7466.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25271 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Procedures and Administration; Meeting

The ACRS Subcommittee on Procedures and Administration will hold a meeting on October 12, 1983 in Room 1010, 1717 H Street, NW, Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss information of a personal nature and information which relates solely to internal personnel rules and practices. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 2 and 6). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, October 12, 1983—10:00 a.m. until 5:00 p.m.

The Subcommittee will hold discussions regarding ACRS activities including the following topics:

(a) Implementation of 41 CFR Part 101-6 Subpart 101-6.10, Federal Advisory Committee Management regarding ACRS activities.

(b) Periodic review of ACRS procedures and practices.

(c) Discuss qualifications of candidates and procedures for reappointment/replacement of ACRS members.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) Pub. L. 92-463 that it may be necessary to close some portions of this meeting to discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and matters which relates solely to internal personnel rules and practices. The authority for such closure are Exemptions (2) and (6) to the Sunshine Act, 5 U.S.C. 552b(c)(2)(6).

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25267 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on October 4, 1983, in Room 1046, 1717 H Street, NW, Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, October 4, 1983—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves (PORVs) on the Combustion Engineering power reactor systems.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Combustion Engineering Owners Group, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25268 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Air Systems (Formerly Heating, Cooling, and Ventilation Systems); Meeting Change

The ACRS Subcommittee formerly known as Heating, Cooling, and Ventilation Systems has been changed to *Air Systems*. The meeting will be held on September 23, 1983, 8:30 a.m., in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review General Electric's response on control room habitability for the GESSAR II design, Generic Safety Issue I, and NRC Staff's progress report on resolution of control room habitability issues.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Wednesday, September 7, 1983 (48 FR 40469).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 12, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25269 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 15, 1983 (48 FR 36929). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start wil be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Systematic Evaluation Program*, September 20 and 21, 1983, Traverse City, MI. The Subcommittee will discuss with Consumers Power Company the systematic evaluation program for the Big Rock Point Plant. Notice of this meeting was published September 2, 1983.

**Reactor Radiological Effects*, September 22, 1983, Washington, DC. The Subcommittee will be briefed on 10 CFR Part 20 (final rule), DOE's draft comments on NRC's Radiation and Health Effects Research Programs, DOE Dose Reduction Working Group final report, and AIF environmental programs.

**Air Systems*, September 23, 1983, Washington, DC. The Subcommittee will review General Electric's response on control room habitability for GESSAR II design, Generic Safety Issue I, and the NRC Staff's progress report on resolution of control room habitability issues.

**Fire Protection*, September 23, 1983, Washington, DC. The Subcommittee will review the current status of fire protection, and the effects of fire protection systems actuation on safety systems.

**Decay Heat Removal Systems*, October 4, 1983, Washington, DC. The Subcommittee will discuss the

Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves (PORVs) on the Combustion Engineering power reactor systems.

Limerick Generating Station Units 1 and 2, October 7 and 8, 1983, Philadelphia, PA. The Subcommittee will review the application of the Philadelphia Electric Company (PECO) for an operating license.

Combined Metal Components and Decay Heat Removal Systems, October 12, 1983, Washington, DC. The Subcommittee will discuss the NRC position on generic recommendations regarding steam generator tube integrity and single and multiple tube ruptures in one and multiple steam generators.

Class 9 Accidents, October 12, 1983, Washington, DC. The Subcommittee will review a revised version of the August 5, 1983 document, "Severe Accident Research Program: Review of Decision-making Process and Regulatory issues Identified to Date."

Procedures and Administration, October 12, 1983, Washington, DC. The Subcommittee will discuss the proposed changes in ACRS procedures for implementation of new rules concerning the Federal Advisory Committee Act, periodic review of ACRS procedures, and matters related to internal agency personnel rules and practices.

Extreme External Phenomena, October 20 and 21, 1983, Los Angeles, CA (tentative). The Subcommittee will conduct a workshop at which possible approaches to the quantification of seismic design margins will be discussed.

Reactor Radiological Effects, October 20, 21, and 22, 1983 (tentative), Washington, DC. The Subcommittee will review occupational doses associated with TMI-2 cleanup, safety implications of auxiliary systems biofouling, Humboldt Bay Power Plant decommissioning plan, occupational doses incurred during Turkey Point Unit 4 steam generator replacement, research needs on low-level radwaste technology and environmental radiation surveillance, EPA proposed standards for uranium and thorium mill tailings (40 CFR 192), and draft Regulatory Guide on bioassay for tritium.

Class 9 Accidents, October 28, 1983, Washington, DC. The Subcommittee will review the severe accident research program (SARP) to determine if the program elements are addressing the correct issues to resolve the severe accident issue.

R. E. Ginna Nuclear Power Plant Unit No. 1, Date to be determined (October-November), Washington, DC. The Subcommittee will review the application of the Rochester Gas and Electric Corporation to convert its Provisional Operating License (POL) to a Full Term Operating License (FTOL).

Emergency Core Cooling Systems (ECCS), November 1, 1983 (tentative), Washington, DC. The Subcommittee will continue the review of the joint NRC/B&W/EPRI integral-system test program.

Regulatory Activities, November 16, 1983, Washington, DC. The Subcommittee will review Regulatory Guides 1.28, Rev. 3, "Quality Assurance Program Requirements (Design and Construction)," and 1.105, Rev. 2, "Instrument Set Points."

Maintenance Practices and Procedures, November 16, 1983, Washington, DC. The Subcommittee will review the current status of maintenance practices and procedures.

NBS Reactor, November 30, 1983, Washington, DC. The Subcommittee will review the renewal of operating license for the NBS reactor at a power level of 20 MW, an increase from 10 MW.

Human Factors, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review the question of what qualifications would be desirable for members of a nuclear power plant operating staff.

Metal Components, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review the NRC position on integrity of steel bolts.

Diablo Canyon Nuclear Power Plant Units 1 and 2, Date to be determined (November, tentative), Los Angeles, CA. The Subcommittee will review the design verification results and the significance of errors found and corrected at Diablo Canyon Nuclear Power Plant Units 1 and 2.

Midland Plant Units 1 and 2, Date to be determined (November, tentative), Washington, DC. The Subcommittee will review Consumers Power Company's plan for an audit of plant quality at Midland Plant Units 1 and 2.

Human Factors, Date to be determined (November), Washington, DC. The Subcommittee will review Emergency Procedure Guidelines (EPGs), Procedure Generation Packages (PGPs), and Emergency Operating Procedures (EOPs).

Emergency Core Cooling Systems (ECCS), Date to be determined (late November-December), Washington, DC. The Subcommittee will review NRC research programs on LOCA/ECCS for report to Congress on fiscal year 1985-1986 budget.

Class 9 Accidents, Date to be determined (December, tentative), Washington, DC. The Subcommittee will review the severe accident research program (SARP) re-direction based on the October meeting and a revised version of the Severe Accident Policy Statement.

Qualification Program for Safety-Related Equipment, Date to be determined, Washington, DC. The Subcommittee will discuss Regulatory Guide 1.89, "Qualification of Electrical Equipment Important to Safety in Nuclear Power Plants."

ACRS Full Committee Meeting

October 13-15, 1983: Items are *tentatively* scheduled.

*A. *Limerick Generating Station Units 1 and 2*—ACRS report on proposed operating license.

*B. *Big Rock Point Nuclear Plant*—ACRS report regarding systematic evaluation program review and integrated reliability assessment.

*C. *Combustion Engineering Inc. Nuclear Steam Supply Systems*—Discussion of decay heat removal capability and depressurization provisions for CE plants without PORVs.

*D. *Steam Generator Tube Integrity*—Discussion of proposed NRC generic recommendations regarding steam generator tube integrity and consideration of multiple tube failures.

*E. *Meeting with Director of Nuclear Material Safety and Safeguards (NMSS)*—Briefing regarding activities of the NRC Office of NMSS.

*F. *PIUS Reactor Concept*—Briefing by representatives of ASEA-ATOM regarding the process inherent ultimately safe reactor concept.

*G. *Pipe Cracking in BWR Main Coolant Piping*—Briefing by representatives of the NRC Staff regarding the status of cracking in BWR main coolant system piping.

*H. *ACRS Subcommittee Activities*—Reports by designated ACRS subcommittees regarding current activities including those related to BWR pipe cracking, ACRS procedures consistent with changes in the Federal Advisory Committee Act and fire protection of nuclear facilities.

I. *Appointment of ACRS Members.* The members will discuss the internal agency rules relating to appointment and reappointment of ACRS members as well as the qualifications of candidates proposed for ACRS membership.

*J. *Class 9 Accidents*—Briefing by NRC Staff representatives on the status of activities related to reevaluation of the NRC severe accident research program plan.

*K. *Proposed Revision of 10 CFR Part 20—Standards for Protection Against*

Radiation—Report from members fo the NRC Staff and ACRS comments regarding proposed changes to update 10 CFR Part 20—Standards for Protection Against Radiation.

*L. *Systems Interactions*—Discussion with representatives of the NRC Staff regarding the status of staff action regarding consideration of systems interactions in the regulation of nuclear power plants.

*M. *Future Activities*—The Committee members will discuss anticipated subcommittee activities and proposed full committee activities.

November 17–19, 1983—Agenda to be announced.

December 15–17, 1983—Agenda to be announced.

Dated: September 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-25270 Filed 9-14-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5894]

Beverly Enterprises, 15% Subordinated Debentures (Due 6-15-2002); Application To Withdraw From Listing and Registration

September 9, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The debentures of Beverly Enterprises ("Company") are listed and registered on the Amex. The Company has filed a Registration Statement on Form 8-A to list its debentures on the New York Stock Exchange ("NYSE") and the Company anticipates trading to begin on the NYSE on September 15, 1983. The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before September 30, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25229 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 23052; (31-794)]

Diamond Shamrock Corp.; Application Pursuant to Section 2(a)(4)

September 9, 1983.

Diamond Shamrock Corporation ("DSC"), a Delaware corporation, 717 North Harwood Street, Dallas, Texas 75201, has filed with this Commission an application and an amendment thereto pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act") for an order declaring it not to be a "gas utility company" as therein defined.

DSC is a domestic integrated oil and gas company with interests in the coal and chemicals businesses. At December 31, 1982, DSC's assets were approximately $3.2 billion and its revenues and earnings for the year then ended were $3.2 billion and $154 million, respectively. Pursuant to a plan and agreement of reorganization between DSC and Natomas Company, and certain related mergers, New Diamond Corporation will own all of the stock of DSC and Natomas. DSC requests an order declaring it not to be a gas utility company pursuant to Section 2(a)(4).

In connection with its oil and gas business, DSC owns and operates certain natural gas wells and gathering systems in the panhandle area of the State of Texas. Its natural gas sales, by type and average number of customers, for the year ended December 31, 1982, were as follows:

[Dollars in thousands]

	Amount	Average No. of customers
Pipeline companies	$201,500	200
Industrial and electric utilities	36,200	5
Irrigation	10,000	400

DSC's irrigation sales constituted approximately 4% of its total gas sales for 1982. THe irrigation sales are made to customers who have interests in gas leases or have granted rights of way for, or whose property is in the vicinity of, DSC's production or gathering facilities. Under Texas law, irrigation sales are exempt from state regulation. DSC does not engage in any distribution to identifiable communities within the geographic areas of its operations and has no franchises for the distribution of gas at retail.

Applicant states that its irrigation sales are of a special and limited character within the meaning of *Panhandle Eastern Pipe Line Company,* HCAR No. 22060 (May 21, 1981), and *Transwestern Pipeline Company,* HCAR No. 22133 (July 20, 1981).

DSC has applied for an order declaring it not to be a "gas utility company" pursuant to Section 2(a)(4) of the Act. Section 2(a)(4) provides that the Commission may declare a company not to be a "gas utility company" if it finds that "(A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility company for the purposes of [the Act.]"

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comments or request a hearing should submit their views in writing by October 7, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as

it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25231 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 9, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Conair Corporation

Common Stock, $.10 Par Value (File No. 7-7090)

Telesphere International

Common Stock, $.01 Par Value (File No. 7-7091)

RCA Corporation

$3.65 Cumulative Preferred Stock, No Par Value (File No. 7-7092)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 30, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25230 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20169; SR-Amex-83-16]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 9, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on July 11, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to extend free trading in index options on the last trading day before expiration from 3:00 p.m. to 4:10 p.m. and to eliminate, except in unusual circumstances, a closing rotation in the expiring series.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19997, July 15, 1983) and by publication in the **Federal Register** (48 FR 33388, July 21, 1983). At that time, the Commission also granted accelerated, temporary (45 days) approval of the proposed rule change, permanent approval to await a review of Amex's initial experience with the rule change in effect. Amex has conducted such a review, based on trading in July 1983 Major Market Index options on the last business day prior to their expiration. Amex reports that its experience with the proposed rule was positive.[1] No other comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25232 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* letter of Robin S. Yonis, Special Counsel, Amex Options Division, to Richard T. Chase, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, September 2, 1983. File No. SR-Amex-83-16.

[Release No. 20170; File No. SR-PSE-83-10]

Filing of Amendment to Proposed Rule Change by the Pacific Stock Exchange, Inc.

September 9, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 2, 1983, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission and amendment to the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

The proposed rule change contained in File No. SR-PSE-83-10 consists of a proposal by PSE to list and trade an option on PSE's High Technnology Index, an index created by the PSE that is comprised of 100 different stocks including ones traded only over-the-counter. The amendment to the proposed rule change would add to PSE's rules position and exercise limits pertaining to the proposed High Technology Index option. The proposed limits would be the equivalent of a $300 million position, and the PSE proposes to set the initial limits at 15,000 contracts. The amendment would also change the provision on margin applicable to the proposed index option contract so that the initial deposit of margin required by PSE rules would have to be made in accordance with Regulation T of the Federal Reserve Board. In addition to making these amendments to the proposed rules applicable to the High Technology Index Option, PSE states in its filing: (1) That it has elected to set the value of the index at 100 as of the close of business on December 31, 1982, rather than 100 on the first day of trading; (2) that it intends to recalculate and disseminate the index value at least once a minute during trading hours; and (3) that it will ensure that the closing index value will be published in a national business periodical. The PSE states in its filing that the statutory basis of the proposed rule change is Section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR-PSE-83-10.

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. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the PSE.

For the Commisson, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25233 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20162; File No. SR-PHLX-1983-16]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Incorporated; Letters of Credit to be Utilized in the Exchange's Foreign Currency Options Market

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1983, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange") has proposed to amend its margin rule to allow Exchange members to accept letters of credit in satisfaction of a foreign currency option writer's initial margin obligations.

This amendment would provide that such letters must be irrevocable, must be in a face amount equal to or greater than the original margin requirements applicable to the foreign currency option positions to which they pertain and must expire no sooner than those option positions.

PHLX has proposed to amend the Commentary to this Rule to provide that such letters may be issued only by U.S. financial institutions that have shareholder equity of at least $200 million. PHLX's proposal further provides that the total amount of letters of credit issued for the account of any one customer may not exceed 15% of that institution's shareholders' equity and that the total amount of letters of credit naming any one Exchange member as beneficiary may not exceed 20% of that institution's shareholders' equity. These proposed amendments also establish the procedural steps that must be followed before an institution can be approved as a letter of credit issuer, e.g., such an institution must provide the Exchange with its most recent annual financial report and with evidence of its legal authority to issue letters of credit. In addition, to maintain its status as an approved issuer, an institution must supply the Exchange with each of its annual reports and quarterly financial statements. Pursuant to the proposed rule change, each Exchange member named as the beneficiary of a letter of credit also must provide the Exchange with detailed information, including the name of the customer for whose account the letter is issued and the amount of the letter.

These proposed additions to the Rule 722 Commentary further provide that, during the first two years subsequent to the effective date of the proposed rule changes, the Exchange may, at any time, suspend, terminate or modify an Exchange member's ability to accept a letter of credit in satisfaction of a customer's original margin requirement. Pursuant to the proposed rule, the Exchange may take this action solely on its own initiative or at the direction of the Securities and Exchange Commission or the Board of Governors of the Federal Reserve System.

Item II. (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendments to Rule 722 are designed to allow letters of credit from approved issuers to be utilized as a means of satisfying a foreign currency option writer's initial margin obligations. PHLX has proposed to amend its margin rule in this fashion because the financial institutions and corporate entities that have the greatest economic need to purchase and sell foreign currency options are accustomed to transacting business on the basis of letters of credit and will derive greater economic benefit from PHLX's market if initial margin obligations can be satisfied in this fashion.

The changes proposed in the Commentary to Rule 722 are designed to specify the criteria and requirements that banks and trust companies must satisfy before they will be approved by the Exchange to issue letters of credit pursuant to Rule 722(d)(L). The proposed criteria are designed to assure that such letters of credit will be issued only by well-capitalized financial institutions that are likely to have had substantial experience with the issuance of letters of credit. Other proposed changes in the Rule 722 Commentary are designed to assure that the Exchange obtains extensive information with respect to each letter of credit and is able to closely monitor the financial condition of each approved issuer. These proposed changes also are designed to place constraints on an institution's ability to issue letters of credit for the account of any one customer and on its ability to issue letters of credit naming any one Exchange member as beneficiary.

Paragraph 8 of the proposed amendments to the Rule 722 Commentary is designed to reflect the fact that letters of credit will initially be utilized in PHLX's market only on a pilot program basis and that, during this pilot program, an Exchange member's ability to accept letters of credit may be suspended, terminated or modified at any time.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Formal comments on the proposed rule change have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 9, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-25234 Filed 9-14-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-5163]

Allied Financial Corp.; Issuance of a Small Business Investment Company License

On June 2, 1983, a notice was published in the **Federal Register** (48 FR 24825) stating that an application has been filed by Allied Financial Corporation, 1625 I Street, N.W., Suite 603, Washington, D.C. 20006, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business on June 17, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-5163 to Allied Financial Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 8, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-25227 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5456]

Avdon Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the SBA regulations governing small business investment companies for the transfer of control of Avdon Capital Corporation (13 CFR 107.701 (1983)), 805 Avenue L, Brooklyn, New York 11230, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), License No. 02/02-5456.

Avdon Capital Corporation was licensed on April 21, 1983. Its present combined paid-in capital and surplus is $500,000. The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

The applicant Agnes Goldenberg is purchasing 50 percent of the issued and outstanding stock of Avdon Capital Corporation from David Newberg.

The proposed new officers, directors and shareholders of the Applicant are as follows:

Avruhum M. Donner, 1282 E. 10th Street, Brooklyn, New York 12230, President, Tresurer and Director, 50%

Agnes Goldenberg, 1442 60th Street, Brooklyn, New York 12219, Secretary and Director, 50%

Leon Goldenberg, 1442 60th Street, Brooklyn, New York 12219, Vice President and Director

Chaim Ginsberg, 1615 E. 9th Street, Brooklyn, New York 11223, Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of Avdon Capital Corporation under their management and control, including adequate profitability and financial soundness, in accordance with the Act, Regulations.

Notice is further given that any person may, not later than (15) days from the date of publication submit to SBA in writing, comments on the transfer of control. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Brooklyn, New York area.

(Catalog of Federal Domestic Assistance program No. 59.011. Small Business Investment Companies)

Dated: September 9, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-25228 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council, California; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m. on Tuesday, October 11, 1983, at 211 Main Street, 5th Floor Conference Room, San Francisco, California 94105, 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 Lawrence J. Wodarski, District Director, U.S. Small Business Administration, San Francisco District Office, 211 Main Street—4th Floor, San Francisco, California 94105 (405) 974-0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83-25225 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council, Pennsylvania; Public Meeting Rescheduled

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, public meeting has been cancelled for Friday, October 7, 1983, and rescheduled for Wednesday, October 5, 1983, from 8:15 a.m. to 11:15 a.m., at the Philadelphia District Office,

Suite 400-East Lobby, One Bala Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004, 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 William T. Gennetti, District Director, U.S. Small Business Administration, One Bala Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596-5801.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 12, 1983.

[FR Doc. 83-25223 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council South Carolina; Public Meeting

The Small Business Administration, Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 9:30 a.m. on Tuesday, October 18, 1983, at the Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, 1835 Assembly Street, Room 358, Columbia, South Carolina 29201—(803) 765-5373.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83-25226 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council, Vermont; Public Meeting; Correction

This document corrects the date of the meeting for the document which appeared at 48 FR 40810, September 9, 1983.

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m., Thursday, October 6, 1983, at the Cortina Inn, Route 4, Mendon, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, (802) 229-0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 9, 1983.

[FR Doc. 83-25224 Filed 9-14-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Captain of the Port, Western Alaska, Public Meetings; Bristol Bay, Naknek/Kvichak Commercial Fishery District Vessel Traffic and Anchorages

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meetings.

SUMMARY: The Captain of the Port, Western Alaska will hold two public meetings to discuss vessel traffic problems occurring annually during the Naknek/Kvichak District Commerical Salmon Fishery. Processing and cargo vessels anchor in fishing areas and interfere with the drift net fishermen. Anchorage areas will be proposed at the meetings with the intent of alleviating the problem. Comments on the problem and proposed solutions will be taken from the public and concerned agencies. Written comments may be submitted to: Captain of the Port, USCG Western Alaska Marine Safety Office, 701 C St., Box 17, Anchorage, AK 99513.

DATES: The public meetings will convene at 9:00 A.M. on 20 October 1983 in Seattle, Washington, and 9:00 A.M. on 27 October 1983 in Naknek, Alaska. The meetings will adjourn at approximately 5:00 P.M.

ADDRESS: The public meeting in Seattle will take place at the north auditorium, fourth floor, Federal Building, 915 Second Ave., Seattle, WA. The public meeting in Naknek will take place in the conference room, Burrough Building, Naknek, Alaska.

FOR FURTHER INFORMATION CONTACT: LTJG Matthew A. Cronin, U.S. Coast Guard Marine Safety Office, 701 C St., Box 17, Anchorage, AK 99513; Phone (907) 271-5137.

Dated: September 12, 1983.

C. M. Holland,

Capt., U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 83-25200 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

[CGD-83-051]

Ship Structure Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ship Structure Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1, section 10(a)(2)).

DATED: October 13, 1983, 9:00 a.m. to 1:00 p.m.

ADDRESS: American Bureau of Shipping, 65 Broadway, New York, NY, Second Floor Committee Room.

FOR FURTHER INFORMATION CONTACT: LCDR D. B. Anderson USCG; Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters (G-MTH-4), Washington, D.C. 20593, (202) 426-2197.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is as follows: to review the business and research projects of the Committee. Various ideas and concepts for the research program for fiscal year 1985 will be discussed and developed. Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify LCDR D. B. Anderson, Secretary, Ship Structure Committee, not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: September 1, 1983.

Clyde T. Lusp, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-25198 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Chatham County, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

FOR FURTHER INFORMATION CONTACT: James K. Erickson, District Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404) 881-3041, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia

Department of Transportation (George DOT) will prepare an environmental impact statement (EIS) on a proposal to widen and reconstruct President Street Extension/Island's Expressway between East Broad Street and U.S. 80. The proposed project consists of constructing two additional lanes predominantly on the north side of the existing roadway. The typical section will be four 12-foot travel lanes, two in each direction, separated by a 24-foot wide grassed median. Exceptions to the typical section will be made to miss or reduce the impact on existing businesses and to best conform to the existing right-of-way. Construction of a parallel two-lane bascule bridge on the north side of the existing bridge at the Wilmington River is proposed. Construction of a parallel at-grade bridge on the south side of the existing bridge at Richardson Creek is also proposed. The proposed project also includes at-grade intersections at General McIntosh and at U.S. 80. However, second stage construction is also proposed. Grade separations are proposed for the President Street and General McIntosh intersection and the Island's Expressway and U.S. 80 intersection. The total project length is approximately 5.5 miles. The proposed work is necessary to accommodate existing and future traffic demand.

Alternatives under consideration include the build and no-build alternative.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting with project "cooperating agencies" was held on August 18, 1983; coordination among agencies is continuing. A public hearing will also be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS shoud be directed to the FHWA at the address provided above.

The catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.

James K. Erickson,

District Engineer, Atlanta, Georgia.

[FR Doc. 83-25101 Filed 9-14-83; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Revisions to the Voluntary Tanker Agreement

Corrections

IN FR Doc. 83-22997 beginning on page 38716 in the issue for Thursday, August 25, 1983, make the following corrections:

1. On page 38716, the first column, the eleventh line from the bottom, the reference to § 1.66" should be removed.

2. On page 38717, the first column, under "*II. Authorities*", the first paragraph, the reference to "§ 166.", should read "§ 1.66."

3. On the same page, the third column, in the paragraph designated "G. *Rules and Regulations.*", the thirteenth and fourteenth lines, the reference to "49 CFR Subtitle A, § 1.66." should read "49 CFR Subtitle A,".

BILLING CODE 1505-01-M

VETERAN'S ADMINISTRATION

Veterans Administration Medical Center, Long Beach, Calif.; Supply Warehouse; Finding of No Significant Impact

It is the intent of the Veterans Administration (VA) to construct a new one story supply warehouse at the Veterans Administration Medical Center (VAMC) at Long Beach, California. The project development includes various areas of storage space, support offices, lockers, and toilets. The new building will replace and consolidate existing warehouse space scattered throughout the VAMC and within leased space offsite. The project will also include development of a new service entrance road and the relocation of existing parking spaces.

The preferred agency alternative is Concept No. 3, as described below, and is the proposed action to be taken. Four alternative plans have been developed; however, only one site location has been considered feasible because the area afforded public road access. Additionally, previous demolition of old structures within the site area has rendered the area altered and disturbed. The "No Action" alternative would maintain the existing facilities in the present condition. Many significant operational problems would not be addressed by implementing this alternative. Alternatives considered feasible were:

Concept No. 1—A plan with all docking space located at one end of building.

Concept No. 2—A smaller storage area in the building with separated docking areas.

Concept No. 3—A larger storage area with separated docking areas. Supply administration would also be located within the building.

Concept No. 4—Assessment of possibility of leasing or purchasing privately owned space as described in agency prepared A-104 study.

The proposed concept for implementation accommodates the site, with only minor impacts developing from construction and operation of the planned facility. Only minimal impacts on the human and natural environment affecting air quality during construction will occur.

Cultural and historical significance of a portion of the proposed site area will require the agency to request and coordinate a review of the proposed action. Consultation will occur with the State Historic Preservation Officer (SHPO) and this agency.

Mitigation will occur during project development. Minor air quality impacts during construction will be limited with temporary control instituted. These efforts will include sprinklering and/or chemical treatment of particulates as well as minimizing exposure of soil areas to reduce dust generation.

As a result of consultation efforts with the California SHPO and the Advisory Council on Historic Preservation, it may become necessary to conduct small scale excavations on the designated archeological site before actual construction, or to monitor construction work in the area of the site.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement (EIS). An Environmental Assessment (EA) has been prepared in accordance with the requirements of the National Environmental Policy Act Regulations, 40 CFR 1501.3-1508.9. A "Finding of No Significant Impact" has been reached based on information presented in the assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director,

Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

By direction of the Administrator.

Dated: September 9, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-25175 Filed 9-14-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 180
Thursday, September 15, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 12, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum regarding the purchase of additional office space in the Ecker Square Condominium Office Building located in San Francisco, California, and a memorandum regarding the leasing of office space in Dallas, Texas, to facilitate the expansion of the Division of Liquidation's Southwest Area Liquidation Office.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 12, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1291-83 Filed 9-13-83; 11:31 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

Date and time: Tuesday, September 20, 1983 at 10:00 A.M.

Place: 1325 K Street, N.W., Washington, D.C.

Status: This meeting will be closed to the public.

Items to be discussed: Compliance. Litigation. Audits, Personnel.

Date and time: Thursday, September 22, 1983 at 10:00 A.M.

Place: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

Status: This meeting will be open to the public.

Matters to be considered: Setting of dates of future meetings; correction and approval of minutes; eligibility report for condidates to receive presidential primary matching funds; administrative terminations; 1984 management plan, routine administrative matters.

Person to contact for information: Mr. Fred Elland, Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Acting Secretary of the Commission.

[S-1296-83 Filed 9-13-83; 3:49 pm]

BILLING CODE 6715-01-M

3

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 40487, Wednesday, September 7, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, September 12, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Legislative proposals relating to banking structure. (This item was originally announced for a meeting on September 7, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: September 12, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1289-83 Filed 9-12-83; 4:56 pm]

BILLING CODE 6210-01-M

4

FEDERAL TRADE COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, September 15, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

Matters To Be Considered

(1) Consideration of proposal to allow cross-examination by Non-attorney experts.

(2) Public session concerning current procedures and ways to improve them, to be followed by closed session concerning effect of proposed procedures on current law enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information, (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1292-83 Filed 9-13-83; 3:20 pm]

BILLING CODE 6750-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATES: 3:00 p.m., Friday, September 16, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of Proposed Trade Regulation Rule on Credit Practices.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-1293-83 Filed 9-13-83; 3:20 pm]

BILLING CODE 6750-01-M

6

POSTAL SERVICE

At its meeting on September 7, 1983, the Board of Governors of the United States Postal Service unanimously voted, pursuant to section 6.4 of the bylaws of the Board (39 CFR 6.4), to hold a meeting by conference telephone call at 12:30 p.m. (EDST) on Friday, September 30, 1983, for the sole purpose of resuming consideration of the recommended decision of the Postal Rate Commission on third-class bulk rates for nonprofit mail in Docket No. R80-1, dated August 26, 1983. The conference telephone call will emanate from the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475

L'Enfant Plaza West, S.W., Washington, D.C.

It is expected that Governors Hardesty, Babcock, Camp, Hughes, McKean, Ryan, Sullivan and Voss will participate in the meeting by conference telephone while Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Coughlin; and Counsel to the Governors Califano will be at Postal Service Headquarters.

The Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this meeting is exempt from the open meeting requirements of the Government in the Sunshine Act (5 U.S.C. 552b[b]) because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 552(b)(c) (3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and sections 7.3(c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

David F. Harris,

Secretary.

[S-1294-83 Filed 9-13-83; 3:21 pm]

BILLING CODE 7710-12-M

7

SYNTHETIC FUELS CORPORATION

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested member of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 871(f)(1)), and Section 4 of the Corporation's Statement of Policy on Public Access to Board meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II, Section 4 of the Corporation's By-laws, Section 116(f) of said Act and Sections 4 and 5 of said policy.

Matters to be Considered

Open Session

1. Chairman's Opening Remarks.
2. Approval of Minutes.
3. Operations Report of Acting Executive Vice President.
4. Report of the Compensation Committee.
5. Amendment of Competitive Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Solicitation.

Closed Session

6. Preliminary Qualification Statements Submitted under Competitive Eastern Province and Eastern Region of the Interior Province Competitive Bituminous Coal Gasification Solicitation.
7. Targeted Solicitation for Coal/Liquid Mixture Projects.
8. Report on Analysis of Great Plains Coal Gasification Project for DOE.
9. Project Strength Reviews—Eastern Shale Projects.
10. Project-Specific Evaluations and Negotiations.
11. Release of Exempt Minutes of Board Meetings.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 9:00 a.m., September 22, 1983.

PLACE: 2121 K Street, N.W., Washington, D.C., Room 503.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Assistant Secretary, (202) 822-6336.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Executive Vice President.

September 12, 1983.

[S-1295-83 Filed 9-13-83; 3:22 pm]

BILLING CODE 0000-01-M

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U.S. RAILWAY ASSOCIATION

DATE AND TIME: September 22, 1983; 10:00 a.m.

PLACE: Board Room, Suite 7200; Seventh Floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

Matters To Be Considered by the USRA Board of Directors

Portion Closed to the Public (10:00 a.m.)

1. Litigation Report.
2. Review of Conrail Confidential and Proprietary Financial Information.
3. Alaska Railroad Valuation Report.

Portion Open to the Public (10:30 a.m.)

4. Approval of Minutes of June 30, 1983 Annual Meeting of the Board of Directors.
5. Delaware & Hudson Request for Waiver of Mortgage Agreement to Sell Property.
6. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777, ext. 503.

[S-1290-83 Filed 9-13-83; 9:34 am]

BILLING CODE 8240-01-M

federal register

Thursday
September 15, 1983

Part II

Department of Transportation

Urban Mass Transportation Administration

Buy America Requirements

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Parts 660 and 661

[Docket No. 83-B]

Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule sets out requirements to implement Section 165 of the Surface Transportation Assistance Act of 1982. Section 165 provides, with exceptions, that funds authorized by the Surface Transportation Assistance Act of 1982, Title 23 of the United States Code, the Urban Mass Transportation Act of 1964, as amended, or the Surface Transportation Assistance Act of 1978 may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. In addition to setting out final regulations, UMTA is also requesting comments on the regulations, and various topics concerning implementation of the statutory provision.

DATES: The regulations are effective January 6, 1983. Comments must be received on or before November 14, 1983.

ADDRESS: Comments should be submitted to UMTA Docket No. 83-B, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4063.

SUPPLEMENTARY INFORMATION:

Immediate Effective Date and Consideration of Comments: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424). Under the Administrative Procedure Act, 5 U.S.C. 553(d), publication of a rule must normally take place 30 days before the rule's effective date. However, exceptions to this normal requirement are permissible in the case of a substantive rule which the agency finds for good cause must be made effective less than 30 days after publication. Since the statutory provision which gives rise to these regulations became effective on January 6, 1983, it has been determined that circumstances warrant the issuance of a final rule with a retroactive effective date so as to immediately implement the statutory provision. This same reason makes it impracticable to publish a Notice of Proposed Rulemaking, and provide for public comment prior to issuing this rule. Comments are, however, solicited on the regulations being adopted, as well as on several possible changes to the regulations that are discussed below. UMTA will consider the comments received and will make a decision with respect to changing these regulations within six months of the issuance of the final rule. Earlier changes may be made with respect to specific proposals if the comments indicate a need for earlier action. In addition, notice and comment are unnecessary in this case since, under the exception in 5 U.S.C. 553(a)(2), the requirements of 5 U.S.C. 553 do not apply to a matter relating to grants.

Regulatory Impact Analysis: This regulation is classified as a "major" regulation under Executive Order 12291, which calls for a Regulatory Impact Analysis to be prepared for major rules. Because of the need to publish a final rule immediately, a Regulatory Impact Analysis could not be completed prior to the issuance of this final rule. However, UMTA will prepare a Regulatory Impact Analysis within 180 days of publication of this final rule.

Environmental Impact Evaluation: This rule will have no significant environmental impact.

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 final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Statutory Background: Section 165 of the Surface Transportation Assistance Act of 1982 provides, with exceptions, that Federal funds may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. There are four exceptions to this basic requirement. The first is that the requirement will not apply if its application is not in the public interest. The second is that the requirement will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The third is that the requirement will not apply in the case of the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components which are produced in the United States is more than 50 percent of the cost of all components of the vehicles or equipment, and if final assembly takes place in the United States. The fourth is that the requirement will not apply if the inclusion of domestic material will increase the cost of the overall project contract by more than 10 percent in the case of projects for the acquisition of buses and other rolling stock; and 25 percent in the case of all other projects.

Section 165 of the Surface Transportation Assistance Act of 1982 applies to contracts utilizing UMTA funds obligated after January 6, 1983. Contracts utilizing funds obligated prior to January 6, 1983, are governed by Section 401 of the Surface Transportation Assistance Act of 1978, and the regulations in 49 CFR Part 660. Section 165 repealed Section 401. The regulations being adopted here under Section 165 (49 CFR Part 661) apply to contracts utilizing UMTA funds obligated after January 6, 1983. However, under the public interest exception contained in Section 165(b)(1), certain contracts entered into prior to January 6, 1983, but necessitating funds obligated after that date, will be covered by the regulations in 49 CFR Part 660.

Discussion of regulations and request for comments: In developing this regulation, UMTA utilized many of its Buy America regulations in 49 CFR Part 660, which implemented Section 401 of the Surface Transportation Assistance Act of 1978.

While we feel that the regulations are generally self-explanatory, there are some items which should be explained in more detail. In addition, we are specifically requesting comments on several aspects of these regulations and these are set out below. We will take further regulatory action based on our analysis of the comments received.

These new requirements will apply to *all* third party contracts. The 1978 UMTA Buy America requirements only applied to third party contracts of over $500,000. UMTA specifically requests information as to the impact of applying the Buy America requirements to all third party contracts, and not just to those of over $500,000. UMTA is particularly interested in receiving

information as to the impact that this change will have on the procurement of replacement parts. The general applicability of the regulations is to all monies obligated by UMTA after January 6, 1983 (the effective date of the Surface Transportation Assistance Act of 1982). Specific exceptions are set out in the regulations, and others will be addressed on a case-by-case basis.

Any type of equipment used by a contractor to produce the material or item being procured under the requirements of these regulations is not covered by the regulations. For example, a piece of construction equipment used at a construction site need not comply with the regulations. In addition, temporary supporting materials, such as soldier piles, which are removed at the end of construction, are not within the scope of the regulations. In addition, if an item is used in the construction process as an aid to construction and remains at the construction site but serves no purpose in the completed product, then the requirements do not apply to that item.

In Section 661.3 of the regulations, UMTA has defined the terms "manufactured product" and "manufacturing process." It was felt necessary that we set out these definitions immediately since Section 165 applies, with exceptions, to all manufactured products purchased with UMTA funds obligated after January 6, 1983. We are specifically requesting comments on our definitions, and request that comments provide alternative definitions for our consideration.

Section 165(b)(4) of the Surface Transportation Assistance Act of 1982 sets out an exception to the general requirements if inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum in the case of projects for the acquisition of rolling stock, and 25 per centum in the case of all other projects. Since train control equipment, communication equipment, and traction power equipment are listed in the same statutory section as rolling stock (Section 165(b)(3)), and their procurement is governed by the same requirements as rolling stock, we will apply the 10 percent differential in cases of their acquisition rather than the 25 percent differential.

Section 661.7(b) of the regulations provides that a public interest exception may be granted by the UMTA Administrator on a case by case basis after consideration of all appropriate factors. UMTA specifically requests comments on whether general public interest exceptions should be granted (see discussion of "spare parts" below), and if they are granted, what they should cover. UMTA is specifically requesting comments as to what factors should be considered in the granting of the public interest exception.

UMTA also requests comments concerning the circumstances in which public interest waivers should be published in the **Federal Register** for comment. During discussion of the Conference Report on the Surface Transportation Assistance Act of 1982, there was a floor statement that UMTA should publish a notice in the **Federal Register** giving all details pertaining to a public interest exception request and allow a 30 day notice period for comment on the request. We do not, at this time, believe that publication of requests seeking a public interest exception is necessary in all cases. This publication requirement would be time consuming and could cause undue delays in procurement and impose unnecessary administrative burdens. We have not set out procedures in the regulations for publishing public interest exception requests in the **Federal Register.** However, UMTA may use such a procedure where the exception requested involves important policy considerations or is controversial. In all other cases, the exception requests will be made available for public inspection. Any comments received will be considered before UMTA acts on the request.

In January 1981, UMTA issued a general public interest waiver under Section 401 of the Surface Transportation Assistance Act of 1978 that provided that foreign-sourced spare parts, which are end-products purchased as part of the same contract for a major capital item, were granted an automatic waiver if their total cost was 10 percent or less of the overall project contract cost. The waiver was issued in order to provide for compatibility of parts, and it was considered in the public interest that this compatibility exist since it promotes efficiency and economy. UMTA is issuing a similar exception under Section 165(b)(1) of the Surface Transportation Assistance Act of 1982, if the items listed in Section 165(b)(3) are being procured. UMTA specifically requests comments on whether this exception should be continued.

In § 661.11(g) of the regulations, UMTA states that the final assembly requirement will be presumed to be met if the cost of final assembly is at least 10 percent of the overall project contract cost. UMTA specifically requests comments on this presumption, and requests comments on whether any other presumptions concerning final assembly should be set out in the regulations, and whether UMTA should attempt to define final assembly. Suggested definitions of "final assembly" are specifically requested. UMTA also specifically requests comments on whether the 10 percent standard is a realistic standard. It has come to our attention that the cost of final assembly in many bus contracts is below the 10 percent level, but that the activities performed during final assembly are meaningful, and meet the intent of the Buy America requirements.

In § 661.11 of the regulations, UMTA sets out listings of typical train control equipment, communication equipment, and traction power equipment. It is specifically stated that these listings are not all inclusive. The listings include both on-board and wayside equipment, and the listing for communication equipment applies to both rail and bus communication equipment. It should be noted that the listing of traction power equipment specifically excludes steel power or third rails. Comments on this exclusion are requested. UMTA specifically requests comments concerning additions to and/or deletions from these listings.

Section 165(d) of the Surface Transportation Assistance Act of 1982 specifically provides that State buy national requirements that are more restrictive than the Federal requirements are not only permitted, but must be given deference by UMTA. Since fiscal year 1981, Congress has directed UMTA to give deference to State requirements, but allowed UMTA to condition its participation in procurements governed by State law on the use of the waivers under Section 401 of the Surface Transportation Assistance Act of 1978. Under Section 165, UMTA is not given the flexibility to use the Federal waiver or exception provisions to avoid more restrictive State laws, and, therefore, even if one of the exceptions under Section 165(b) would apply, UMTA must allow a State to impose its law if it is stricter than the Federal law set out in Section 165. It should be noted that this provision only allows a State to impose a stricter buy national provision, and does *not* allow a State to impose a buy State or buy local provision on a procurement utilizing UMTA funds.

Treatment of Subcomponents

In January 1981, UMTA issued a Notice of Proposed Rulemaking (46 FR 5815) concerning proposed changes to its Buy America regulations implementing Section 401 of the Surface Transportation Assistance Act of 1978. One of the proposed changes would

have permitted subcomponents manufactured in the United States that receive Customs Bureau tariff exemptions to retain their domestic identity for purposes of determination of origin under Buy America. Final action on this proposed change was never taken. Since we received several comments concerning this proposal, and in view of the statutory changes that have taken place, we have not included that proposed provision in our regulations implementing Section 165 of the Surface Transportation Assistance Act of 1982. However, we are considering this provision for our new regulations, and thus again request comments. Set out below is a full description of the proposal.

In permitting manufacturers to include the cost of domestic subcomponents in the fifty percent test of Section 165, UMTA would utilize an existing Bureau of Customs procedure. A review of the U.S. Tariff Schedules reveals that Item 807.00 implements a legislative exemption from customs duty of those components which are products of the United States that have been assembled abroad into articles if those United States products: (a) Were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape, or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process such as cleaning, lubricating, and painting. The duty imposed on such manufactured articles is computed by subtracting the cost of value of the United States products from the duty that is applicable to the full value of the imported articles. The Bureau of Customs regulations implementing Item 807.00 are set out at 19 CFR 10.11–10.24. An importer who desires to take advantage of this exception files documentation identifying the United States components in the assembled product. This determination of value of the U.S. subcomponents utilizing the customs approach is considered a suitable substitute for the simple "origin" test contained in the regulations being adopted here (§ 661.11). Under the proposed approach, United States subcomponents would not need to lose their identity simply because they had been sent abroad to be assembled into higher components.

The proposal would permit United States subcomponents that receive tariff exemptions to retain their domestic identity for purposes of determining origin of end-products. The cost of subcomponents that receive tariff exemptions would be included in the computation of domestic components. The cost of the foreign components, after subtracting the cost of such subcomponents, would be included in the computation of non-domestic components. This approach would provide more flexibility to end-product manufacturers, and would provide an advantage to U.S. subcomponent manufacturers and their workers.

In evaluating whether this provision should be adopted, UMTA will utilize the comments submitted in response to its 1981 Notice of Proposed Rulemaking in addition to those received as a result of this request for comments.

It must be noted that this proposed change would only apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) since these are the only procurements utilizing the component test.

In addition to allowing U.S. subcomponents to be included in the calculation of domestic components, UMTA is also considering requiring that foreign sourced subcomponents that are used in manufacturing domestic components retain their identity for the purposes of computing foreign component costs.

In making this proposal, UMTA specifically requests comments on the following:

1. Is it practical to attempt to trace foreign sourced subcomponents? While the Customs approach allows an administrative mechanism for tracing U.S. sourced subcomponents, is there a similar mechanism available for tracing foreign sourced subcomponents? UMTA has particular concern in this matter since it is known that various manufacturers purchase components from suppliers who may or may not utilize foreign sourced subcomponents, and these manufacturers may not have any means available to them to ascertain the source of subcomponents.

2. While the UMTA proposals would apply to subcomponents (an item directly incorporated into a component), we are interested in receiving comments as to whether the requirements should extend to below the subcomponent level, and if they should extend beyond this level, how far should they extend.

3. The major purpose of the Buy American requirements is to provide protection for the American labor force and for American manufacturers. If the foreign subcomponent tracing test is adopted, there is some question as to whether or not the true intent of Buy America would be met. The assembly or manufacture of components in the United States is desirable and is currently being done in conjunction with the procurement of transit equipment. UMTA requests comments on the extent to which this would continue if the tracing of foreign subcomponents were required.

4. Specific comments are requested as to any tests or requirements that may be imposed which would realistically trace foreign subcomponents, yet at the same time not impose such an administrative burden on American manufacturers as to discourage them from bidding on federally assisted mass transit projects.

5. While UMTA has set out some of its concerns on the subcomponent matter, any other concerns or issues involving this matter are requested.

Before taking any final action on the subcomponent issue, UMTA will carefully review the comments and suggestions received.

List of Subjects in 49 CFR Parts 660 and 661

Buy America, Domestic preference requirements, Grant programs—transportation, Mass transportation.

PART 660—[AMENDED]

Accordingly, Title 49 of the Code of Federal Regulations is amended by:

1. Amending § 660.11 by adding paragraph (a–1) to read as follows:

§ 660.11 Applicability.

* * * * *

(a–1) The regulations in this part do not apply to any federally-assisted procurement governed by the regulations in Part 661 of this subchapter.

* * * * *

2. Adding a new Part 661 to read as follows:

PART 661—BUY AMERICA REQUIREMENTS—SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Sec.

§ 661.1 Applicability.
§ 661.3 Definitions.
§ 661.5 General requirements.
§ 661.7 Exceptions.
§ 661.9 Application for exceptions.
§ 661.11 Rolling stock procurement.
§ 661.13 Grantee responsibility.
§ 661.15 Investigation procedures.
§ 661.17 Failure to comply with certification.
§ 661.19 Sanctions.
§ 661.20 Rights of third parties.
§ 661.21 State buy America provisions.

Authority: Sec. 165, Pub. L. 97–424; 49 CFR 1.51.

§661.1 Applicability

(a) Except as otherwise provided in this section, these regulations apply to all federally assisted procurements utilizing funds authorized by the Urban Mass Transportation Act of 1964, as amended, the Surface Transportation Assistance Act of 1982, the Surface Transportation Assistance Act of 1978, and Title 23, United States Code which are administered by the Urban Mass Transportation Administration (UMTA) and which are obligated by UMTA after January 6, 1983. These regulations also apply to funds authorized by Section 18 of the Urban Mass Transportation Act of 1964, as amended, that are administered by the Federal Highway Administration, and which are obligated after January 6, 1983.

(b) Under the provisions of Section 165(b)(1) of the Act, these regulations do not apply to the following:

(1) A procurement contract entered into before January 6, 1983, under a Letter of No Prejudice issued by the Urban Mass Transportation Administration.

(2) A procurement contract using funds obligated after January 6, 1983, under a grant amendment which supplements a grant obligated prior to January 6, 1983, where the grant amendment does not change the scope of the original project.

(3) Any procurement using funds obligated after January 6, 1983, to provide planned supplementary funding, subject to the availability of funds, for a multi-year phased project which was initiated prior to January 6, 1983, if the initial procurement contract was awarded prior to January 6, 1983, and if the post-January 6, 1983, grant does not change the scope of the multi-year phased project.

§661.3 Definitions.

As used in this part:

(a) "Act" means the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424).

(b) "Administrator" means the Administrator of the Urban Mass Transportation Administration.

(c) "Grantee" means any entity that is a recipient of UMTA funds.

(d) "Manufactured product" means a product produced as a result of manufacturing process.

(e) "Manufacturing process" means a process whereby an original material is changed or transformed into an article which, because of the process, is different from the original product.

(f) "Overall project contract" means the contract between a grantee and its prime contractor.

(g) "United States" means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Marianas Islands.

§661.5 General requirements.

(a) Except as provided in §§ 661.7 and 661.11, no funds may be obligated by UMTA for a grantee project unless all steel, cement, and manufactured products used in the project are produced in the United States.

(b) For steel and cement, all manufacturing processes must take place in the United States, other than metallurgical processes involving refinement of steel additives.

(c) The steel requirements apply to all steel items including, but not limited to, structural steel, running rail, and contact rail.

§661.7 Exceptions.

(a) Section 165(b) of the Act provides that the general requirements of Section 165(a) shall not apply in four specific instances. This section sets out the circumstances under which three of the four exceptions apply. Section 661.11 sets out the circumstances under which the "rolling stock" exception applies.

(b) The general requirements of Section 165(a) shall not apply if their application would be inconsistent with the public interest. In determining whether this exception will be granted, the Administrator will consider all appropriate factors on a case by case basis, except for those general exceptions specifically set out in this part.

(c) The general requirements of Section 165(a) shall not apply if materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. In determining whether this exception will be granted, it will be presumed that the conditions exist if no responsive and responsible bid is received offering an item produced in the United States.

(d) The general requirements of Section 165(a) shall not apply if the inclusion of domestic material will increase the cost of the overall project contract by more than 10 percent in the case of projects for the acquisition of rolling stock, and 25 percent in the case of all other projects. The 10 percent provision applies to the acquisition of buses, other rolling stock, and train control equipment, communication equipment, and traction power equipment. In determining whether the exception will be granted, the lowest responsive and responsible bid offering a non-United States produced item will be multiplied by 1.1 or 1.25, as appropriate. If the resulting amount is less than the lowest responsive and responsible bid offering all items produced in the United States, then the exception will be granted.

(e) The statutory exceptions shall be treated as being separate and distinct from each other.

(f) The exceptions described in paragraphs (b) and (c) of this section may be granted if the items described in Section 165(b)(3) of the Act are being procured. If an exception is granted for a component, that component shall be treated as domestic for the purposes of § 661.11.

Appendix A—General Exceptions

(a) All waivers published in 41 CFR 12–6.105 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a–d), as the waivers may be amended from time to time, are incorporated by reference under the provisions of § 661.7 (b) and (c).

§661.9 Application for exceptions.

(a) This section sets out the application procedures for obtaining all exceptions except those general exceptions set forth in this Part for which individual applications are unnecessary and those covered by Section 165(b)(3) of the Act. The procedures for obtaining an exception covered by Section 165(b)(3) are set forth in § 661.11.

(b) A bidder who seeks to establish grounds for an exception must seek the exception, in a timely manner, through the grantee.

(c) Only a grantee may request an exception. The request must be in writing, include facts and justification to support the exception, and be submitted to the Administrator through the appropriate Regional Administrator.

(d) The Administrator will issue a written determination setting forth the reasons for granting or denying the exception request. Each request for an exception, and UMTA's action on the request, are available for public inspection under the provisions of 49 CFR Part 601, Subpart C.

§661.11 Rolling stock procurement.

(a) The provisions of § 661.5 will not apply in the case of the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components which are produced in the United States is more than 50 percent of the cost of all components and final assembly takes place in the United States.

(b) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(c) An end product means any item subject to Section 165(b)(3) of the Act that is to be acquired by a grantee, as specified in the overall project contract.

(d) In determining the origin of components, each component must be treated as either entirely domestic or entirely foreign, based on the place where the component is mined, produced, or manufactured. Components of unknown origin must be treated as foreign. The origin of subcomponents of components is immaterial. Transportation costs to the place of incorporation into the end product and, in the case of foreign components, applicable duties, must be included in determining component cost.

(e) The cost of a component is the price that a bidder or offeror must pay to a subcontractor or supplier for components for the items covered by Section 165(b)(3). If the component is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component, an allowance for profit, and the administrative and overhead costs attributable to that component under normal accounting principles. In accordance with Section 165(c) of the Act, labor costs involved in final assembly shall not be included in calculating component costs.

(f) Final assembly is the effort expended at the final assembly point to manufacture the end-product.

(g) The final assembly requirement will be presumed to have been met if the cost of final assembly is at least 10 percent of the overall project contract cost.

(h) Train control equipment includes, but is not limited to, the following equipment:

(1) Mimic board in central control.
(2) Dispatchers console.
(3) Local control panels.
(4) Station (way side) block control relay cabinets.
(5) Terminal dispatcher machines.
(6) Cable/cable trays.
(7) Switch machines.
(8) Way side signals.
(9) Impedance bonds.
(10) Relay rack bungalows.
(11) Central computer control.

(i) Communication equipment includes, but is not limited to, the following equipment:

(1) Radios.
(2) Space station transmitter and receivers.
(3) Vehicular and hand-held radios.
(4) PABX telephone switching equipment.
(5) PABX telephone instruments.
(6) Public address amplifiers.
(7) Public address speakers.
(8) Cable transmission system cable.
(9) Cable transmission system multiplex equipment.
(10) Communication console at central control.
(11) Uninterruptible power supply inverters/rectifiers.
(12) Uninterruptible power supply batteries.
(13) Data transmission system central processors.
(14) Data transmission system remote terminals.
(15) Line printers for data transmission system.
(16) Communication system monitor test panel.
(17) Security console at central control.

(j) Traction power equipment includes, but is not limited to, the following:

(1) Primary AC switch gear.
(2) Primary AC transformers (rectifier).
(3) DC switch gear.
(4) Traction power console and CRT display system at central control.
(5) Bus ducts with buses (AC and DC).
(6) Batteries.
(7) Traction power rectifier assemblies.
(8) Distribution panels (AC and DC).
(9) Facility step-down transformers.
(10) Motor control centers (facility use only).
(11) Battery chargers.
(12) Supervisory control panel.
(13) Annunciator panels.
(14) Low voltage facility distribution switch board.
(15) DC connect switches.
(16) Negative bus boxes.
(17) Power rail insulators.
(18) Power cables (AC and DC).
(19) Cable trays.
(20) Instrumentation for traction power equipment.
(21) Connectors, tensioners, and insulators for overhead power wire systems.
(22) Negative drainage boards.
(23) Inverters.

(k) The power or third rail is not considered traction power equipment and is thus subject to the requirements of Section 165(a) of the Act and the requirements of § 661.5.

(l) A bidder who is bidding on a contract for any of the items covered by Section 165(b)(3) and who will comply with Section 165(b)(3) and the regulations in this section is not required to follow the application for exceptions procedures set out in § 661.9 for the items covered by Section 165(b)(3). In lieu of these procedures, the bidder must specifically certify in the certificate required by Section 661.13(b) of this part that it will comply with Section 165(b)(3) and § 661.11 of this part.

Appendix A—General Exceptions

(a) The provisions of Section 661.11 do not apply when foreign sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

§ 661.13 Grantee responsibility.

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with UMTA.

(b) The grantee shall include in its bid specification for procurement within the scope of these regulations an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate indicating that the bidder or offeror will comply with the requirements of Section 165(a) and the regulations set forth in this part.

§ 661.15 Investigation procedures.

(a) It is presumed that a bidder who has submitted the required Buy America certificate is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. 1001.

(b) Any party may petition UMTA to investigate the compliance of a successful bidder with the bidder's certification. That party ("the petitioner") must include in the petition a statement of the grounds of the petition and any supporting documentation. If UMTA determines that the information presented in the petition indicates that the presumption in paragraph (a) of this section has been overcome, UMTA will initiate an investigation.

(c) When UMTA initiates an investigation, it will request that the grantee require the successful bidder to document its compliance with its Buy America certificate. The successful bidder has the burden of proof to establish that it is in compliance. Documentation of compliance will be based on the specific circumstances of each investigation, and UMTA will specify the documentation required in each case.

(d) The grantee shall be required to reply to the request under paragraph (c)

of this section within 15 working days of the request.

(e) Any additional information requested or required by UMTA must be submitted within 5 working days after the receipt of such request unless specifically excepted by UMTA.

(f) The grantee's reply (or that of the bidder) will be transmitted to the petitioner. The petitioner may submit comments on the reply to UMTA within 10 working days after receipt of the reply. The grantee and the low bidder will be furnished with a copy of the petitioner's comments, and they may submit rebuttal comments to UMTA within 5 working days after receipt of the petitioner's comments.

(g) The failure of a party to comply with the time limits stated in this section may result in resolution of the investigation without consideration of untimely filed comments.

(h) UMTA shall, upon request, make available to any interested party information bearing on the substance of the investigation which has been submitted by the petitioner, interested parties or grantees, except to the extent that withholding of information is permitted or required by law or regulation. If a party submitting information considers that the information submitted contains proprietary material which should be withheld, a statement advising UMTA of this fact may be included, and the alleged proprietary information must be identified wherever it appears. Any comments on the information provided shall be submitted within a maximum of ten days.

(i) When a petition for investigation has been filed before award, the grantee will not make an award prior to the resolution of the investigation and when a request for investigation has been filed before the opening of bids, the grantee will not open bids prior to the resolution of the investigation, unless the grantee determines that:

(1) The items to be procured are urgently required;

(2) Delivery or performance will be unduly delayed by failure to make the award promptly; or

(3) Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

(j) In the event that the grantee determines that the award is to be made during the pendency of an investigation, the grantee will notify UMTA prior to making such award. UMTA reserves the right not to participate in the funding of any contract awarded during the pendency of an investigation.

(k) Initial decisions by UMTA will be in written form. Reconsideration of an initial decision of UMTA may be requested by any party involved in an investigation. UMTA will only reconsider a decision if the party requesting reconsideration submits new matters of fact or points of law that were not known or available to the party during the investigation. Request for reconsideration of a decision of UMTA shall be filed not later than ten (10) days after the initial written decision. A request for reconsideration shall be subject to the procedures, in this section, consistent with the need for prompt resolution of the matter.

§ 661.17 Failure to comply with certification.

If a successful bidder fails to demonstrate that it is in compliance with its certification, it will be required to take the necessary steps in order to achieve compliance. If a bidder takes these necessary steps, it will not be allowed to change its original bid price. If a bidder does not take the necessary steps, it will not be awarded the contract if the contract has not yet been awarded, and it is in breach of contract if a contract has been awarded.

§ 661.19 Sanctions.

A willful refusal to comply with certification by a successful bidder may lead to the initiation of debarment proceedings under 49 CFR Part 29 (proposed December 13, 1982 (47 FR 55700)).

§ 661.20 Rights of third parties.

The sole right of any third party under the Buy America provision is to petition UMTA under the provisions of § 661.15. No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the grantee.

§ 661.21 State buy America provisions.

(a) Except as provided in paragraph (b) of this section, any State may impose more stringent buy America or buy national requirements than contained in Section 165 of the Act and the regulations in this part.

(b) UMTA will not participate in contracts governed by the following:

(1) State buy America or buy national preference provisions which are not as strict as the Federal requirements.

(2) State and local buy national or buy America preference provisions which are not explicitly set out under State law. For example, administrative interpretations of non-specific State legislation will not control.

(3) State and local buy local preference provisions.

(Sec. 165, Pub. L. 97–424; 49 CFR 1.51)

Dated: September 8, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

[FR Doc. 83–25082 Filed 9–14–83; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 661

[Docket No. 83-B]

Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Proposed rulemaking cross reference.

SUMMARY: In Part II of this issue of the **Federal Register**, the Urban Mass Transportation Administration (UMTA) has set out its final rule implementing Section 165 of the Surface Transportation Assistance Act of 1982 (the "Buy America" provision). In addition, in that document, UMTA has set out a proposal concerning the impact of the "Buy America" requirements on certain subcomponents used in UMTA-assisted mass transportation projects. A detailed discussion and description of the proposal is contained in the document.

DATE: Comments on the proposal must be received on or before November 14, 1983.

ADDRESS: Comments should be submitted to UMTA Docket No. 83-B, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 A.M. and 5:00 P.M., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4063.

Dated: September 13, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

[FR Doc. 83-25392 Filed 9-14-83; 9:45 am]

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