11-15-83
Vol. 48 No. 221
Pages 51903-52024

federal register

Tuesday
November 15, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Antibiotics
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Child Welfare
Child Support Enforcement Office

Flood Insurance
Federal Emergency Management Agency

Food Ingredients
Food and Drug Administration

Grant Programs—Indians
Community Planning and Development, Office of Assistant Secretary

Income Taxes
Internal Revenue Service

Radio
Federal Communications Commission

Seafood
Food and Drug Administration

Securities
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

CONTINUED INSIDE

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

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

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

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

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

Selected Subjects

Veterans
Veterans Administration

Contents

Federal Register
Vol. 48, No. 221
Tuesday, November 15, 1983

List of Separate Parts in This Issue

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 48, No. 221
Tuesday, November 15, 1983

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Rule to Achieve Compatibility With the Transport Regulations of the International Atomic Energy Agency (IAEA)

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction; revocation of suspension.

SUMMARY: In a Federal Register document published on August 5, 1983 (48 FR 35600), the U.S. Nuclear Regulatory Commission (NRC) revised its regulations for the transportation of radioactive material to make them compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. That notice and two subsequent correction notices were published on August 24, 1983 (48 FR 38449) and October 5, 1983 (48 FR 45381). The second correction notice also suspended the effective date of all sections in Part 71 that contained information collection requirements. This document corrects the remaining typographical errors and revokes the suspension.

EFFECTIVE DATE: November 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donald R. Hopkins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–443–7878.

SUPPLEMENTARY INFORMATION: Corrections are made to the following pages:

1. On page 35607, the Paperwork Reduction Act Statement at the top of column three is revised to read as follows:

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget on November 2, 1983: approval number 3150–0008.

2. On page 35611, in § 71.18(c), the formula is corrected to read as follows:

$$\text{Minimum Transport Index} = (0.40x + 0.67y + z)\left(1 - \frac{15}{x + y + z}\right)$$

3. On page 35617, in § 71.75(d), line 11, the expression "$(1.3\times10^{-3}$ atm cm^{3}s)" is corrected to read "$(1.3\times10^{-4}$ atm cm^3/s)".

4. On page 35627, Table A–2, in the first column ">2.0" is corrected to read "≥ 2.0".

5. The suspension of §§ 71.5, 71.7, 71.12(c)(3), 71.31, 71.33, 71.35, 71.37, 71.39, 71.85(c), 71.87 (e) and (f), 71.89, 71.91, 71.93(c), 71.95, 71.97, 71.101–71.137 is revoked.

Dated at Washington, DC, this 7th day of November, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-30872 Filed 11-14-83; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 95

Access to and Protection of National Security Information and Restricted Data; Correction

In FR Doc. 83–28197 beginning on page 48644 in the issue of Thursday, October 20, 1983, make the following corrections:

1. On page 48647, "Classification Guidance" table, entry "294" in the first column, "U." should appear adjacent to the first line.

2. On page 48648, "Classification Guidance" table, entry "341", in the second column, "U." should appear adjacent to the first line.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ANM-11]

Alteration of the Newport, OR, and the San Francisco, CA, Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of the Newport, OR, and the San Francisco, CA, Additional Control Areas (ACA). Alterations to these boundaries are necessary because of the realignment of the air traffic control boundary between the Seattle, WA, and Oakland, CA, Air Route Traffic Control Centers (ARTCC). This action realigns the affected ACA's to reflect the new air traffic control areas of responsibility.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

History

On August 15, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign the boundaries of the Newport, OR, and San Francisco, CA, ACA's (48 FR 36827). The Seattle, WA, and Oakland, CA, ARTCC's have realigned their common

boundary and this change to the ACA's is necessary to interface with the change in air traffic control responsibilities. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of the Newport, OR, and the San Francisco, CA, ACA's. Alterations to these boundaries are necessary because of the realignment of the air traffic control boundary between the Seattle, WA, and Oakland, CA, ARTCC's.

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), is amended, effective 0901 GMT, January 19, 1984, as follows:

§ 71.163 [Amended]

Newport, OR

By deleting the words "thence via the west edge of V-27W and V-27 to the Oakland ARTCC Flight Advisory Area, and on the south by the Oakland ARTCC Flight Advisory Area" and substituting the words "thence via the west edge of V-112, V-27 and V-27W to lat. 41°20'00" N., long. 124°29'30"W.; to lat. 41°20'00"N., and the boundary of the Oakland, CA, Oceanic CTA/FIR ARTCC Flight Advisory Area"

San Francisco, CA

By deleting the words "bounded on the north by the Seattle ARTCC Flight Advisory Area" and substituting the words "bounded on the north by a line beginning at lat. 41°20'00"N., long. 124°20'30"W.; to lat. 41°20'00"N., and the boundary of the Oakland, CA, Oceanic CTA/FIR ARTCC Flight Advisory Area"

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

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. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 4, 1983.

B. A. Bancroft,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-30662 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 83-NE-22]

Amendment to Description of the Lincoln, Maine, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 700-foot transition area at Lincoln, Maine. A new very high frequency omnirange station/distance measuring equipment VOR/DME-A instrument approach has been developed and a 700-foot transition area is required to contain instrument flight rule (IFR) arrival and departure procedures.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, August 23, 1983, notice of proposed rulemaking was published in the **Federal Register** (48 FR 38246) stating that the FAA proposed to designate a 700-foot transition area at Lincoln, Maine so as to provide controlled airspace for aircraft executing the VOR/DME-A instrument approach procedure to Lincoln Airport. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by designing a 700-foot transition area at Lincoln, Maine, which is described as follows:

§ 71.181 [Amended]

Lincoln, Maine

"That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 45°21'42" N., long. 68°32'07" W., of Lincoln Regional Airport, Lincoln, Maine and within 4.5 miles each side of the Millinocket VORTAC 184° radial extending from the 7-mile radius to .5 miles south of the VORTAC, excluding that portion which overlies the Millinocket, Maine, transition area."

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

Note.—The FAA has determined that this regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal and (4) the 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 Burlington, Massachusetts, on October 31, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-30661 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 83-AWA-29]

Extension of VOR Federal Airway V-175; Roseau, MN to Winnipeg, MB, Canada

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends VOR Federal Airway V-175 from Roseau, MN, to Winnipeg, MB, Canada. Transport Canada, of the Canadian Government, has requested the extension in order to expedite traffic

between those terminal areas and this action supports that request.

DATES: Effective date—January 19, 1984.

Comments must be received on or before December 30, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-29, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the extension of VOR Federal Airway V-175 from Roseau, MN, to Winnipeg, MB, Canada, only 11 miles of V-175 extension is within the United States and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to accommodate the request from the Canadian Government to extend V-175 from Roseau, MN, to Winnipeg, MB, Canada. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to accommodate the request from the Canadian Government to extend V-175 from Roseau, MN, to Winnipeg, MB, Canada. Only 11 miles of this airway extension is within the United States. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is impracticable and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., January 19, 1984, as follows:

V—175 [Amended]

By deleting the words "Roseau, MN." and substituting the words "Roseau, MN; to Winnipeg, MB, Canada. The airspace within Canada is excluded."

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

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. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 4, 1983.

B. A. Bancroft,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-30680 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-24]

Alteration of VOR Federal Airway; New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends VOR Federal Airway V-91 from Calverton, NY, VORTAC to Sardi, NY, Intersection. The extension provides a by-pass route to Long Island, NY, and Connecticut Airports. This action aids flight planning and reduces controller workload.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On August 29, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-91 from Calverton, NY, to Sardi, NY, Intersection (48 FR 39078). This airway extension provides controlled airspace along a major southbound route to airports in Long Island, NY, and Connecticut. This action reduces controller workload by designating an airway in an area where aircraft are vectored and aids flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations extends VOR Federal Airway V-91 from Calverton, NY, VORTAC to Sardi, NY, Intersection. The extension provides a by-pass route to Long Island, NY, and Connecticut Airports.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

Adoption of the Amendment

§ 71.123 [Amended]

According by, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), is amended, effective 0901 G.m.t., January 19, 1984, as follows:

V-91 [Amended]

By deleting the words "From Calverton, NY, via" and substituting the words "From INT Calverton, NY, 180° and Hampton, NY, 223° radials; Calverton;"

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

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. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on November 4, 1983.

B. A. Bancroft,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-30684 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 79P-0349]

Cheese and Cheese Products; Amendment to Permit Use of Antimycotics on Surface of Bulk Cheeses and To Provide for Declaration of Animal, Plant, and Microbial Enzymes as "Enzymes"

Correction

In FR Doc. 83-28785 beginning on page 49012 in the issue of Monday, October 24, 1983 make the following correction:

On the same page, column two, lines twelve through fifteen, the last sentence of the SUMMARY should read "FDA concludes that the amendments to the standards will promote honesty and fair dealing in the interest of consumers."

BILLING CODE 1505-01-M

21 CFR Parts 172, 182, and 184

[Docket No. 81N-0313]

GRAS Status of Starter Distillate and Diacetyl

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that starter distillate and diacetyl are generallly recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 15, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1278 effective on December 15, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1982 (47 FR 34155), FDA published a proposal to affirm that starter distillate and diacetyl are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on starter distillate and diacetyl and the report of the Select Committee on GRAS Substances (the Select Committee) on starter distillate and diacetyl are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of starter distillate and diacetyl, FDA gave public notice that it was unaware of any prior-sanctioned food uses for these ingredients other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture of FDA before September 6, 1958, were given notice to submit proof of those sancitons, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of starter distillate and diacetyl recognized by issuance of an apppropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for starter distillate and diacetyl were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of starter distillate or diacetyl under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on starter distillate and diacetyl. The agency is therefore issuing the proposed regulations as a final rule with minor editorial changes.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for starter distillate used as a direct human food ingredient and would incorporate those specifications into the regulation on this substance when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, starter distillate for direct food uses must comply with the description in § 184.1848 and be of food-grade purity (21 CFR 184.1(b)(3) and 170.30(h)(1)).

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive

from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stast. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 172, 182, and 184 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. In § 172.515 *Synthetic flavoring substances and adjuvants* by removing "Butter starter distillate" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.60 [Amended]

2. In § 182.60 *Synthetic flavoring substances and adjuvants* by removing "Diacetyl (2,3-butanedione)" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 184:

a. By adding new § 184.1278, to read as follows:

§ 184.1278 Diacetyl.

(a) Diacetyl ($C_4H_6O_2$, CAS Reg. No. 431–03–8) is a clear yellow to yellowish green liquid with a strong pungent odor. It is also known as 2,3-butanedione and is chemically synthesized from methyl ethyl ketone. It is miscible in water, glycerin, alcohol, and ether, and in very dilute water solution, it has a typical buttery odor and flavor.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 368, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1848, to read as follows:

§ 184.1848 Starter distillate.

(a) Starter distillate (butter starter distillate) is a steam distillate of the culture of any or all of the following species of bacteria grown on a medium consisting of skim milk usually fortified with about 0.1 percent citric acid: *Streptococcus lactis, S. cremoris, S. lactis subsp. diacetylactis, Leuconostoc citrovorum,* and *L. dextranicum.* The ingredient contains more than 98 percent water, and the remainder is a mixture of butterlike flavor compounds. Diacetyl is the major flavor component, constituting as much as 80 to 90 percent of the mixture of organic flavor compounds. Besides diacetyl, starter distillate contains minor amounts of acetaldehyde, ethyl formate, ethyl acetate, acetone, ethyl alcohol, 2-butanone, acetic acid, and acetoin.

(b) FDA is developing food-grade specifications for starter distillate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 15, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30372 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 182 and 184

[Docket No. 80N-0389]

GRAS Status of Calcium Pantothenate, Sodium Pantothenate, and D-Pantothenyl Alcohol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that calcium pantothenate is generally recognized as safe (GRAS) as a direct human food ingredient. In addition, FDA is removing sodium pantothenate and *D*-pantothenyl alcohol from the list of substances that are GRAS. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: December 15, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1212 effective on December 15, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 14, 1983 (48 FR 1742), FDA published a proposal to affirm that calcium pantothenate is

GRAS for use as a direct human food ingredient. In addition, FDA proposed to remove sodium pantothenate and *D*-pantothenyl alcohol from the list of substances that are GRAS because there is no indication that these substances are currently used in food. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on pantothenates and the report of the Select Committee on GRAS Substances (the Select Committee) on pantothenates are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of calcium pantothenate, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned use could be determined. That notice was also an opportunity to have prior-sanctioned uses of calcium pantothenate recognized by issuance of an appropriate regulation under Part 181—Prior Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Parts 184 and 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for calcium pantothenate were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of calcium pantothenate under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on pantothenates. The agency is therefore issuing the proposal as a final rule without change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential ecomomic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8212, 182.8580, and 182.8772 [Removed]

1. Part 182 is amended by removing § 182.8212 *Calcium pantothenate*, § 182.8580 *D-Pantothenyl alcohol*, and § 182.8772 *Sodium pantothenate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1212, to read as follows:

§ 184.1212 Calcium pantothenate.

(a) Calcium pantothenate ($(C_9H_{16}NO_5)_2Ca$, CAS Reg. No. of the *D*-isomer, 137-08-6) is a salt of pantothenic acid, one of the vitamins of the B complex. Only the *D*-isomer of pantothenic acid has vitamin activity, although both the *D*-isomer and the *DL*-racemic mixture of calcium pantothenate are used in food. Commercial calcium pantothenate is prepared synthetically from isobutyraldehyde and formaldehyde via 1,1-dimethyl-2-hydroxy-propionaldehyde and pantolactone.

(b) Calcium pantothenate meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 56, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. Calcium pantothenate may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 15, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated October 21, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30369 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 78N-0198]

GRAS Status of Dextrin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that dextrin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 15, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1277 effective on December 15, 1983.

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: Subsequently, the agency published a tentative final rule in the **Federal Register** of August 20, 1982 (47 FR 36437), in which FDA proposed not to include the levels of use and food categories in the GRAS regulation on dextrin. The tentative final rule provided an opportunity for public comment on this change.

In the **Federal Register** of March 27, 1979 (44 FR 18246), FDA published a proposal to affirm that dextrin is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

No comments were received in response to the agency's tentative final rule on dextrin. The agency is therefore issuing the tentative final rule as a final rule without change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of the type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Corn dextrin."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Dextrin".

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1277, to read as follows:

§ 184.1277 Dextrin.

(a) Dextrin ($[C_6H_{10}O_5]_n \cdot H_2O$, CAS Reg. No. 9004-53-9) is an incompletely hydrolyzed starch. It is prepared by dry heating corn, waxy maize, waxy milo, potato, arrowroot, wheat, rice, tapioca, or sago starches, or by dry heating the starches after: (1) Treatment with safe and suitable alkalis, acids, or pH control agents and (2) drying the acid or alkali treated starch.

(b) The ingredient meets the specification of the Food Chemicals Codex, 3d Ed. (1981), p. 96, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a formulation aid as defined in § 170.3(o)(14) of this chapter; as a processing aid as defined in § 170.3(o)(24) of this chapter; as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; and as a surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 15, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30370 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 81N-0329]

GRAS Status of Vitamin A

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that vitamin A (including vitamin A acetate and vitamin A palmitate) is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 15, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1930 effective on December 15, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 14, 1983 (48 FR 1745), FDA published a proposal to affirm that vitamin A (including vitamin A acetate and vitamin A palmitate, hereafter called vitamin A) is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, mutagenic evaluation, teratologic evaluation, and the report of the Select Committee on GRAS Substances (the Select Committee) on vitamin A are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of vitamin A, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of vitamin A recognized by issuance of an appropriate regulation under Part 181—Prior Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 and 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for vitamin A were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for the use of vitamin A under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on vitamin A. The agency is therefore issuing the proposed regulation as a final rule without change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavoring.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8930, 182.8933, and 182.8936 [Removed]

1. Part 182 is amended by removing § 182.8930 *Vitamin A*, § 182.8933 *Vitamin A acetate*, and § 182.8936 *Vitamin A palmitate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1930, to read as follows:

§ 184.1930 Vitamin A.

(a)(1) Vitamin A (retinol; CAS Reg. No. 68-26-8) is the alcohol 9,13-dimethyl-7-(1,1,5-trimethyl-6-cyclohexen-5-yl)-7,9,11,13-nonatetraen-15-ol. It may be nearly odorless or have a mild fishy odor. Vitamin A is extracted from fish liver oils or produced by total synthesis from β-ionone and a propargyl halide.

(2) Vitamin A acetate (retinyl acetate; CAS Reg. No. 127-47-9) is the acetate ester of retinol. It is prepared by esterifying retinol with acetic acid.

(3) Vitamin A palmitate (retinyl palmitate; CAS Reg. No. 79-81-2) is the palmitate ester of retinol. It is prepared by esterifying retinol with palmitic acid.

(b) The ingredient meets the specifications for vitamin A in the Food Chemicals Codex, 3d Ed. (1981), p. 342, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation

of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. Vitamin A may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 15, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30368 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 184

[Docket No. 80N-0107]

GRAS Status of Maltodextrin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that maltodextrin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: December 15, 1983.

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 20, 1982 (47 FR 36443), FDA published a proposal to affirm that maltodextrin and GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the report of the Select Committee on GRAS Substances (the Select Committee) on the health aspects of corn sugar (dextrose), corn syrup, and invert sugar food ingredients and the Select Committee's statement on maltodextrin are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The former may also be purchased from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of maltodextrin, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of maltodextrin recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for maltodextrin were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of maltodextrin under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on maltodextrin. The agency is therefore issuing the proposed regulation as a final rule without change.

In the proposal, FDA stated that it would work with the Committee on Codex Specifications (now known as the Committee on Food Chemicals Codex) of the National Academy of Sciences to develop acceptable specifications for maltodextrin used as a direct food ingredient and would incorporate those specifications into the regulation when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, maltodextrin for direct food uses must comply with the description in § 184.1444 and be of food-grade purity (21 CFR 182.1(b)(3) and 170.30(h)(1)).

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has detemined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409 701(a), Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended by adding new § 184.1444, to read as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

§ 184.1444 Maltodextrin.

(a) Maltodextrin ($[(C_6H_{10}O_5)_n$, CAS Reg. No. 9050–36–6) is a nonsweet nutritive saccharide polymer that consists of D-glucose units linked primarily by α-1-4 bonds and that has a dextrose equivalent (D.E.) of less than 20. It is prepared as a white powder or concentrated solution by partial hydrolysis of corn starch with safe and suitable acids and enzymes.

(b) FDA is developing food-grade specifications for maltodextrin in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredients is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 15, 1983.

(Sec. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: October 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30371 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 436 and 450

[Docket No. 83N-0343]

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; High-Pressure Liquid Chromatographic Assay for Bleomycin Fractions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for an improved method for quantitative determination of the content of the various bleomycin fractions in bleomycin sulfate. The new method, high-pressure liquid chromatographic assay, replaces the column chromatographic assay currently specified in the regulations. This action is intended to improve drug quality.

DATES: Effective November 15, 1983; comments, notice of participation, and request for hearing by December 15, 1983; data information, and analyses to justify a hearing by January 16, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA is replacing the column chromatographic assay currently specified in the regulations for the quantitative determination of bleomycin components of bleomycin sulfate with a high-pressure liquid chromatographic (HPLC) assay. Based on a collaborative study with an international and a foreign health care laboratory and the sole manufacturer of the drug, the agency has determined that the HPLC assay is faster and more sensitive than the method being replaced in the regulations.

In addition, because the HPLC assay method is capable of separating the bleomycin A_2 component from other minor bleomycin components, the lower content limit for bleomycin A_2 is revised from 60 percent to 55 percent to reflect the accurate quantitation of the bleomycin A_2 component.

The data generated by the collaborative study on which the agency relies in amending the antibiotic drug regulations are on public display in the Dockets Management Branch (address above).

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 450

Antibiotics, Antitumor.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 436 and 450 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended by adding new § 436.339 to read as follows:

§ 436.339 High-pressure liquid chromatographic assay for bleomycin fractions.

(a) *Equipment.* A high-pressure liquid chromatograph equipped with:

(1) Two solvent pumps;

(2) A solvent programmer;

(3) A low dead volume cell 8 to 20 microliters;

(4) A light path length of 1 centimeter;

(5) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(6) A suitable recorder;

(7) A suitable integrator; and

(8) A suitable-sized column approximately 25 centimeters in length having an inside diameter of 4.6 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 to 10 micrometers in diameter, USP XX.

(b) *Reagents*—(1) *0.005M 1-pentanesulfonic acid in 0.5 percent acetic acid adjusted to pH 4.3 with concentrated ammonium hydroxide.* Filter and degas before using.

(2) *Methanol, spectrophotometric grade.* Filter and degas before using.

(3) *Mobile phase.* Adjust the solvent programmer for linear gradient development starting with a mixture of 0.005*M* 1-pentanesulfonic acid:methanol (9:1) and ending with a mixture of 0.005*M* 1-pentanesulfonic acid:methanol (6:4) in 1 hour at a flow rate of 1.2 milliliters per minute. Minor flow rate and gradient changes can be made as necessary depending on column and instrument conditions. Disodium ethylenediaminetetraacetic acid USP at a concentration of 0.005*M* may be added to the mobile phase if necessary for satisfactory performance.

(c) *Preparation of sample solution.* Reconstitute the vial with 6 milliliters of deaerated water.

(d) *Procedure.* Using the equipment and reagents listed in paragraphs (a) and (b) of this section, start pumping the mobile solvent at the initial conditions. Inject 10 microliters of the sample solution into the chromatograph and begin the linear gradient pumping program. After the final mobile phase conditions are reached (1 hour) continue to pump the solvent mixture for an additional 20 minutes or until the demethylbleomycin A_2 is eluted. The elution order is void volume, bleomycinic acid, bleomycin A_2, bleomycin A_5, bleomycin B_2, bleomycin B_4, and demethylbleomycin A_2.

(e) *Calculations.* Calculate the percentage of each bleomycin by comparing its peak area contribution to that of the total response of all the bleomycins.

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

2. Part 450 is amended in § 450.10a by revising paragraphs (a)(1)(ix) and (b)(9) to read as follows:

§ 450.10a Sterile bleomycin sulfate.

(a) * * *

(1) * * *

(ix) Its content of various bleomycins is as follows: Bleomycin A_2 is not less than 55 percent and not more than 70 percent; bleomycin B_2 is not less than 25 percent and not more than 32 percent; bleomycin B_4 is not more than 1 percent. Bleomycins A_2 and B_2 should comprise not less than 85 percent of the total bleomycins.

* * * * *

(b) * * *

(9) *Content of various bleomycin fractions.* Proceed as directed in § 436.339 of this chapter.

* * * * *

The change implemented by this regulation improves methods of assay for a particular product, the manufacturer of which is aware of the prospective change and has indicated agreement with it. Therefore, because this regulation has been agreed to by the one person affected by it, is not controversial, and represents an improvement over present assay methods, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The regulation, therefore, is effective November 15, 1983. However, interested persons may, on or before December 15, 1983 submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before December 15, 1983, a written notice of participation and request for hearing, and (2) on or before January 16, 1984. The data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of anticipation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. November 15, 1983.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: November 11, 1983.

Philip L. Paquin,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 83-30791 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Transportation of Claimants and Beneficiaries

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is amending its Medical Series of regulations to provide that transportation at VA expense will not be authorized for the cost of travel by privately-owned vehicle in any amount in excess of the cost of such travel by public transportation unless public transportation is not reasonably accessible or would be medically inadvisable. Transportation will also not be authorized for the cost of travel in excess of the actual expense incurred by any person as certified by that person in writing. Transportation at VA expense will not be authorized unless the person claiming reimbursement is a service-connected veteran; a nonservice-connected veteran in receipt of VA pension benefits; or a person whose annual income, as determined under the provisions of 38 U.S.C. 503, is less than or equal to the maximum annual base pension rates provided in 38 U.S.C. 521. In limiting reimbursement to these categories of beneficiaries, the VA is implementing Section 201 of the Veterans Health Programs Extension and Improvement Act of 1979 (Pub. L. 96–151).

DATE: This regulation amendment is effective December 15, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Fleckenstein, Chief, Medical Administration Service (136F), 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2851.

SUPPLEMENTARY INFORMATION: This regulation amendment implements section 111, title 38, U.S.C., as amended by Pub. L. 96–151. It does not affect the payment of travel benefits to those individuals entitled by statute to receive such benefits. The establishment of the income test noted above as delimiting eligibility for nonservice-connected veterans who are not in receipt of pension represents, in effect, an administrative determination that applicants with income exceeding those limits have the ability to pay routine travel costs. The regulation makes provision for an applicant to present evidence to rebut that presumption. Travel expenses of all other claimants will not be authorized except when medically indicated ambulance transportation is claimed and an administrative determination is made regarding the claimant's inability to bear the cost of such transportation.

On pages 36658 and 36659 of the **Federal Register** of August 23, 1982, the proposed amendment to § 17.100 was published. Interested persons were given 30 days to submit comments, suggestions or recommendations. No comments were received regarding the proposed regulation amendment. The proposed amendment is hereby adopted without change and is set forth below.

The Administrator has determined that this amendment to VA regulations is nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have 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 Administrator hereby certifies that this regulation will not 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 38 U.S.C. 605(b), this regulation amendment is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendment will exclusively affect only certain nonservice-connected veteran applicants for VA medical care.

The Catalog of Federal Domestic Assistance Numbers are 64.009, 64.010 and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: October 18, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—MEDICAL

Section 17.100 is amended by revising the introductory paragraph to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense will be authorized for eligible claimants and beneficiaries. Transportation will not be authorized for the cost of travel by privately-owned vehicle in any amount in excess of the cost of such travel by public transportation unless public transportation is not reasonably accessible or would be medically inadvisable. Transportation will not be authorized for the cost of travel in excess of the actual expense incurred by any person as certified by that person in writing. Transportation will not be authorized unless the person claiming reimbursement is a service-connected veteran; a nonservice-connected veteran in receipt of VA pension benefits; or a person whose annual income, as determined under the provisions of 38 U.S.C. 503, is less than or equal to the maximum annual base pension rates provided in 38 U.S.C. 521. Travel expenses of all other claimants will not be authorized unless the claimant can present clear and convincing evidence, in a form prescribed by the Administrator, to show that he/she is unable to defray the cost of transportation; or except when medically-indicated ambulance transportation is claimed and an administrative determination is made regarding the claimant's ability to bear the cost of such transportation. Travel will be authorized for the following purposes: (38 U.S.C. 111, as amended by Pub. L. 94–581, sec. 101, and Pub. L. 96–151, sec. 201)

* * * * *

(38 U.S.C. 210(c))

[FR Doc. 83-30755 Filed 11-14-83; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6481

[OR-20269, OR-20278, OR-20279]

Oregon; Revocation of Secretarial Orders of April 3, 1903, August 25, 1909, and January 28, 1910

Correction

In FR Doc. 83–27545, beginning on page 46049, in the issue of Tuesday, October 11, 1983, in the third column, in the fourteenth line from the bottom, "E½NE½" should read "E½NE¼".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6571]

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, FEMA—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 the 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. 553(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.

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 sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Region II					
New Jersey: Monmouth.	Sea Bright, borough of	345317B	Dec. 11, 1970, emergency; Oct. 8, 1971, regular; Nov. 16, 1983, suspended.	Oct. 14, 1971, July 1, 1974, Apr. 23, 1976	Nov. 16, 1983.
New York: Bronx, Kings, Richmond, Queens.	New York City, city of	360497	Apr. 8, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspency;.	June 28, 1974, June 11, 1976	Do.
Region IV					
Florida:					
Manitee	Palmetto, city of	120159C	Apr. 25, 1975, emergency; Sept. 2, 1981, regency; Nov. 16, 1983, suspended..	July 19, 1974, Feb. 20, 1976, Sept. 2, 1981.	Do.
Taylor	Unincorporated areas	120302B	Jan. 31, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983. suspended.	Jan. 10, 1975, Jan. 13, 1978	Do.
Georgia: Bryan	Unincorporated areas	130016A	July 15, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	July 30, 1975	Do.
Mississippi:					
Hancock	Bay St. Louis, city of	285251B	June 30, 1970, emergency; Sept. 11, 1970, regular; Nov. 16, 1983, suspended.	July 1, 1970, July 1, 1974, Oct. 31, 1975.	Do.
Harrison	Gulfport, city of	285253	May 29, 1970, emergency; Sept. 11, 1970, regular; Nov. 16, 1983, suspended..	Feb. 20, 1978	Do.
Hancock	Unincorporated areas	285254	June 30, 1970, emergency; Sept. 9, 1970, regular; Nov. 16, 1983, suspended.	Apr. 3, 1978	Do.
Hancock	Waveland, city of	285292	June 30, 1970, emergency; Sept. 11, 1970, regular; Nov. 16, 1983, suspended.	Apr. 16, 1976	Do.
Region V					
Illinois:					
DeKalb	Kingston, village of	170185B	June 16, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	March 8, 1974, June 11, 1976	Do.
Peoria	Kingston Mines, village of	170758B	Aug. 7, 1975, emergency; November 16, 1983, regular; Nov. 15, 1983, suspended.	December 28, 1973, December 26, 1975.	Do.
Michigan:					
Saginaw	Saginaw, city of	260169B	Feb. 26, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	June 21, 1974, October 10, 1975	Do.
Oakland	Sylvan Lake, city of	260701B	Mar. 8, 1977, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	July 14, 1978	Do.
Ohio:					
Monroe	Clarington, village of	390405B	July 7, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	Sept. 6, 1974, May 21, 1976	Nov. 2, 1983.
Jefferson	Rayland, village of	390301B	Mar. 11, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	March 22, 1974, May 28, 1976	Do.
Region IX					
Arizona: Coconino	Unincorporated areas	040019B	Feb. 18, 1975, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	Jan. 24, 1975, May 30, 1978	Do.
Region X					
Washington: Snohomish.	Unincorporated areas	530171B	Sept. 3, 1974, emergency; Nov. 16, 1983, regular; Nov. 16, 1983, suspended.	March 8, 1974, May 28, 1976	Do.

(National Flood Insurance Act of 1968 (title XIII of the 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: November 8, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-30735 Filed 11-14-83; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 302

Child Support Enforcement Program; Collection of Support for Certain Adults

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Section 2332 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, provides that, at its option, a State may collect and enforce support obligations from an absent parent both for the children and for the spouse or former spouse who is receiving aid under title IV–A of the Social Security Act (the Act) and with whom the children are living. A State may not attempt to establish a spousal support obligation and may collect spousal support only if the existing support obligation includes both child and spousal support. If a State chooses to collect spousal support, it may use all available collection mechanisms and enforcement remedies to collect and enforce child support. Section 171(a)(1) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, allows States to collect spousal support in non-AFDC cases. We published a final rule with comment period in the **Federal Register** on December 23, 1982 (47 FR 57277–57282) to implement section 2332 of Pub. L. 97–35 and section 171(a)(1) of Pub. L. 97–248. The purpose of this document is to correct two technical errors in the final rule, to address several other technical errors that do not require revisions to the final rule, and, if necessary, to consider comments received on that rule. However, since the only comment received was favorable, it is not necessary to consider comments in this document.

DATES: This document is effective November 15, 1983.

FOR FURTHER INFORMATION CONTACT: Marianne Rufty (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Prior to the enactment of Pub. L. 97–35 and Pub. L. 97–248, the Social Security Act (the Act) only allowed States to collect and enforce child support obligations. When there was a single support order which represented an obligation for both spousal and child support, the IV–D agency was not authorized to collect, distribute or enforce the spousal support obligation under the IV–D State plan, even though spousal support must be assigned to the State under section 402(a)(26)(A) of the Act as a condition of receipt of aid under title IV–A of the Act. This situation created enormous difficulties in determining how to account for and distribute the collections which were made in these situations.

Section 2332 of Pub. L. 97–35, effective on October 1, 1981, amended sections 451, 452, 453, 454, 457 and 460 of the Act to allow States the option of collecting and enforcing certain spousal support. Section 171(a)(1) of Pub. L. 97–248, effective on August 13, 1981, amended section 454(6)(A) of the Act to allow States to collect and enforce certain spousal support in non-AFDC cases.

Regulatory Provisions

The final rule, published on December 23, 1982, implemented the statutory requirements by adding or deleting language to Parts 301 through 305 of the existing regulations to extend collection and enforcement provisions to include spousal support. In effect, we simply deleted the word "child" wherever it appeared before the word "support" to indicate that the regulatory provision applies to any support collected or enforced. However, in certain circumstances, this approach was not possible and alternative language was used for clarity. We also made a few minor changes to correct inconsistencies or to make the regulations easier to read.

Technical Corrections to Final Rule

This document corrects two technical errors in Part 302 of the final rule which was published in the **Federal Register** on December 23, 1982 and addresses several other technical errors that do not require revisions to the final rule. One error is the result of amending the final regulations by adding a parenthetical expression that was both unnecessary and incorrect. The remaining errors are the result of publication of three other OCSE final regulations preceding publication of this final rule which moved and redesignated a specific section, added a new section and, in two cases, removed the word "child" from the existing regulations. Therefore, certain references to sections in the December 23 final rule were either incorrect or redundant.

Under Part 302 of the final rule, we amended 45 CFR 302.15(a)(1)(iii) by adding the parenthetical expression "(including separate identification of the number of cases in which spousal support is collected)." Section 452(a)(10)(C) of the Act does not require the Secretary to report on the amounts of spousal support collected but rather to identify the number of child support cases in which spousal support is involved. Existing regulations at 45 CFR 302.15(a)(2) already meet the reporting requirements contained in section 452(a)(10)(C) of the Act. Therefore, this document amends the final rule by deleting the incorrect parenthetical expression at 45 CFR 302.15(a)(1)(iii). The OCSE–3, the form States use to comply with the requirements of 45 CFR 302.15(a)(2), was correctly revised to include a line item that separately identifies the number of cases in which spousal support is involved. (The OMB approval number is 0960–0154).

We also amended 45 CFR 302.52(d) by removing the word "child" where it appeared in that section. Final regulations, published in the **Federal Register** on August 27, 1982, entitled Incentive Payments to States and Political Subdivisions (47 FR 37886–37889), moved and redesignated § 302.52 as § 303.52. At that time, the word "child" was deleted from the newly designated § 303.52 thereby making our reference to this section in the December 23 final rule incorrect. We are not, however, correcting this error in this document because the above mentioned regulation has already done so.

In addition, we amended 45 CFR 302.31(a) (1) and (2) to clarify the language and removed the word "child" from that section. Final regulations on the Treatment of Assigned Support Payments Received Directly and Retained by AFDC Applicants or Recipients, published in the **Federal Register** on October 5, 1982 (47 FR 43953–43957), added a new § 302.31(a)(3). The new § 302.31(a)(3) was inadvertently omitted from the final rule published December 23. This document adds § 302.31(a)(3), as published on October 5th, to the final rule.

Under Part 304 of the final rule, we amended 45 CFR 304.21(a)(2) by removing the word "child" where it appeared in that section. Final regulations on Federal Financial Participation in the Costs of Cooperative Agreements with Courts and Law Enforcement Officials (47 FR 53014–53018), published in the **Federal Register** on November 24, 1982, deleted the word "child" from that section. Therefore, there was no need to include reference to that section in the December 23rd final rule. We are not, however, correcting this error in this document since the above mentioned regulation has already done so.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511) the information collection requirements contained in this regulation and reported on the revised OCSE–3 have been approved by the Office of Management and Budget (OMB). The OMB approval number is 0960–0154.

Regulatory Impact Analysis

No significant costs will result from implementation of the final rule which was published in the Federal Register on December 23, 1982. We estimated that the effect of that rule will result in collections of $5 million each year from 1982 through 1986. Therefore, the Secretary determined that the final rule was not a major rule as described by Executive Order 12291. The Secretary has also determined that this document, which merely corrects two technical errors in the final rule, is not a major rule as described by Executive Order 12291. In addition, the Secretary certifies that for the reasons stated above, neither the final rule nor this document will have significant economic impact on a substantial number or small entities and, therefore, neither requires a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

List of Subjects in 45 CFR Part 302

Child welfare, Grant programs—social programs.

The final regulations with comment period published in the Federal Register on December 23, 1982 (47 FR 57277–57282) are amended as follows:

§ 302.15 [Amended]

A. 45 CFR 302.15(a)(1)(iii) is amended by removing the parenthetical expression.

B. 45 CFR 302.31 is amended by adding paragraph (a)(3) to read as follows:

§ 302.31 Establishing paternity and securing support.

* * * * *

(a) * * *

(3) When assigned support payments are received and retained by an AFDC recipient, to proceed as follows:

(i) In States that implement the IV–A State plan requirements to count retained support payments as income under 45 CFR 233.20(a)(3)(v), the IV–D agency shall notify the IV–A agency whenever it discovers that directly received payments are being, or have been, retained; or

(ii) In States that do not implement the IV–A State plan requirements to count retained support payments as income to meet need, the IV–D agency shall recover the retained support payments. This recovery by the IV–D agency shall be carried out in accordance with the standards for program operations provided in § 303.80 of this chapter.

(Sec. 1102, Social Security Act (42 U.S.C. 1302); sec. 451, 452, 453, 454, 457, and 460, Social Security Act (43 U.S.C. 651, 652, 653, 654, 657, and 660))

(Catalog of Federal Domestic Assistance program No. 13.679, Child Support Enforcement Program)

Dated: July 18, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: November 1, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-30529 Filed 11-14-83; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 17 and 97

[FCC 81-4]

Changes in Procedures for Approval of Proposed Antenna Structures in the Amateur Radio Service; Announcement of Effective Date and Correction

AGENCY: Federal Communications Commission.

ACTION: Final Rule; announcement of effective date and correction.

SUMMARY: The effective date of rules amending this document sets Parts 17 and 97 to change procedures for approval of proposed antenna structures in the Amateur Radio Service (2–5–81; 46 FR 10915). The rule amendments were adopted by the Commission on January 8, 1981, but their effective date has been held in abeyance pending clearance of reporting requirements by the General Accounting Office. The amendments are necessary to permit amateur radio operators to file a single form to obtain approval of proposed antenna structures, instead of the two forms (610 and 714) currently required. The effect of this action is a simplification of the antenna approval process for both amateur radio licensees and the Commission.

The antenna approval form number is 854.

DATE: The effective date of the rules changes is January 3, 1984.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–4964.

In § 17.4(h), where there is a blank space following the word Form, insert the number 854. In § 97.45(a), where there is a blank space following the word Form, insert the number 854.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-30716 Filed 11-14-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 1 and 90

[PR Docket 79–191; RM–3380; PR Docket 79–334; RM–3691; PR Docket 79–107 and 81–703; FCC 83–474]

Release of Spectrum in the 806–821 and 851–866 MHz Bands and Adoption of Rules and Regulations Which Govern Their Use

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission has adopted a Memorandum Opinion and Order which amends certain rules previously adopted in the Second Report and Order of this proceeding. Its decisions in this Memorandum Opinion and Order are the result of petitions for reconsideration of its previous actions. By this Memorandum Opinion and Order the Commission clarifies and to some extent modifies its channel loading standards for trunked private land mobile 800 MHz systems; affirms the permissibility of paging on 800 MHz channels were it will not impair two way operations; allows extended radio system implementation schedules in the Business Radio Service; clarifies the comparative criteria to be applied when more applications are received than can be accommodated on available frequencies in the SMRS category; affirms the removal of entry restrictions on radio equipment manufacturers in the offering of SMRS service; affirms its decision to terminate the proceeding looking into multiple licensing at 800 MHz (PR Docket 79–107); and affirms trunked SMRS application processing procedures employed by the Commission.

EFFECTIVE DATE: December 8, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Levin, Private Radio Bureau, Rules Branch (202) 634-2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Memorandum Opinion and Order; Proceeding Terminated

In the matter of amendment of Part 90 of the Commission's Rules to release spectrum in the 806-821/851-866 MHz bands and to adopt rules and regulations which govern their use (PR Docket No. 79-191, RM-3380); amendment of Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communications systems, (PR Docket No. 79-334; RM 3691); an inquiry concerning the multiple licensing of 800 MHz radio systems ("community repeaters"), (PR Docket No. 79-107); amendment of § 90.385(c) of the Commission's Rules to allow transmission of non-voice signals at 800 MHz.[1] (PR Docket No. 81-703).

Adopted: October 19, 1983.

Released: November 1, 1983.

By the Commission: Commissioner Quello absent.

Background

1. On July 22, 1982, the Commission adopted a *Second Report and Order* in this proceeding which released the remaining 250 private land mobile channels in the 806-821 MHz and 851-866 MHz bands,[2] and established new rules to govern private land mobile radio operations on these channels. This proceeding ended a process that began in 1970 for allocating spectrum and adopting a regulatory structure to govern private land mobile radio operations at 800 MHz. The *Second Report and Order* established uniform rules for future operation in these bands, as well as certain interim rules to cover grandfathered systems authorized under previous rules. The *Second Report and Order* also consolidated four related dockets which dealt with 800 MHz private land mobile radio.

2. Stated broadly, the *Second Report and Order*: (1) Apportioned the remaining 800 MHz private land mobile radio spectrum among four user categories established by eligibility affinity;[3] (2) opened channels to both trunked and conventional technology;[4] (3) established uniform loading standards for all conventional systems and for all trunked systems;[5] (4) increased the number of mobile stations required to assure channel exclusivity; (5) reduced the time within which certain channel loading benchmarks must be reached in areas where there are waiting lists for frequencies; (6) required frequency selection by applicants, except in the case of Specialized Mobile Radio System (SMRS) licensees;[6] (7) eliminated a number of technical restrictions which reduced licensees' operational flexibility; and (8) removed the restriction on manufacturers' entry into the SMRS marketplace as licensees of systems.

Reconsideration

3. Several parties have requested either reconsideration and reversal, or clarification of various aspects of the *Second Report and Order*.[7] Broadly stated, the issues which they ask us again to consider include: the appropriate number of transmitters necessary to achieve channel loading in any given locale or radio service; our authority to authorize oneway paging on 800 MHz two-way systems; whether Business Radio Service eligibles should also be allowed extended system implementation schedules when certain predefined conditions are met; the status of remote or satellite stations in wide-area radio systems operated by public service agencies in situations in which the geographic area needed to be covered exceeds the protected area which the rules provide; the comparative criteria which the Commission will apply in cases in which applications are received for more frequencies than are available; the authorization of trunked SMRS licenses to RF equipment manufacturers; the termination of PR Docket 79-107; and the application processing procedures applicable to trunked SMR systems.

Summary

4. By this *Memorandum Opinion and Order* the Commission clarifies and to some extent modifies its channel loading standards for trunked private land mobile 800 MHz systems; affirms the permissibility of paging on 800 MHz channels where it will not impair two way operations; allows extended radio system implementation schedules in the Business Radio Service; clarifies the comparative criteria to be applied when more applications are received than can be accommodated on available frequencies in the SMRS category; affirms the removal of entry restrictions on radio equipment manufacturers in the offering of SMRS service; affirms its decision to terminate the proceeding looking into multiple licensing at 800 MHz (PR Docket 79-107); and affirms trunked SMRS application processing procedures employed by the Commission.

Loading and Loading Related Issues

A. Discussion

5. Two petitioners, LMCC and Motorola, request we reconsider several of our decisions regarding channel loading and measuring the use of the 800 MHz channels. LMCC addresses this matter in the context of the status to be afforded satellite or remote base stations operating as part of wide-area trunked systems. It requests that these satellite or remote base stations be given primary status, rather than the secondary status currently prescribed in the rules. LMCC argues that the critical nature of communications on wide-area systems makes the application of secondary status to any portion of the system "unacceptable and not in the public interest," in that these types of

[1] The titles of the various proceedings that have been consolidated into this proceeding have been shortened.

[2] Six hundred channels were made available for private land mobile use in the *Second Report and Order* in Docket No. 18262. Three hundred channels were released in 1974 and another fifty in 1978. *See generally, First Report and Order and Second Notice of Inquiry*, Docket No. 18262, 35 FR 8644 (June 4, 1970); *Second Report and Order*, Docket No. 18262, 46 FCC 2d 752 (1974), *reconsidered, Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945 (1975); *Order*, FCC 78-854, (1978) on reconsideration: *NARUC v. FCC, 525 F. 2d 630 (D.C. Cir. 1976), cert. denied, 425 U.S. 992 (1976).*

[3] Public Safety/Special Emergency Radio Services; Industrial/Land Transportation Radio Services; Business Radio Service; SMRS private carrier licensees.

[4] A trunked system is one in which two or more channels are linked with a computer contoller in order to assign the first available channel to a user. A conventional system operates on one or more channels, but unlike a trunked system, each user must manually search for a vacant channel.

[5] Loading standard describes the number of mobile transmitting stations which must be placed in operation on a given frequency pair (i.e. "channel") or group of frequencies.

[6] An SMRS or specialized mobile radio system is a private carrier system in which the licensee of the base station transmitter is authorized by the Commission to operate as a commercial provider of communications service to persons eligible under Part 90 of the Commission's rules. See *NARUC v. FCC*, 525 F. 2d 630 (D.C. Cir. 1976), cert. denied, 425 U.S. 992 (1976). *See also* Communications Amendments Act of 1982, section 120, Pub. L. 97-259, 96 Stat 1087, September 13, 1982, codified at 47 U.S.C. 332.

[7] The petitioners are (1) the Associated Public-Safety Communications Officers (APCO); (2) the E. F. Johnson Company (Johnson); (3) the Land Mobile Communications Council (LMCC); (4) Motorola, Inc. (Motorola); (5) the National Association of Business and Educational Radio, Inc. (NABER); and (6) the Telocator Network of America (Telocator). In addition, the National Mobile Radio Association (NMRA) filed an appeal of the proceeding in PR Docket 79-191 in the United States Court of Appeals for the District of Columbia Circuit, No. 82-2065, September 16, 1982.

systems generally have public service responsibilities.[8]

6. Motorola raised several other issues related to loading. First, it supports the position taken by LMCC on the subject of wide area systems for public service agencies. Second, Motorola suggests that the 70 mobiles per channel loading standard for conventional systems is too high, and that, as a general proposition, the loading requirements in major market areas should be different than those for smaller market areas.[9] Motorola believes that such distinctions should be stated explicitly in the rules. Motorola is also concerned that the Commission may permit the use of "air-time" instead of mobile station transmitter counts as a measure of channel occupancy, which would encourage private radio system licensees to interconnect their radio systems with telephone service to originate and receive calls in their mobile units. Motorola suggests that the consequences of permitting "air-time" to be used as a measure of channel occupancy would be to encourage lengthier conversations over the radio system by allowing licensees to substitute channel occupancy for loading and thus to reduce the number of mobile stations they must place on these frequencies. This, Motorola believes, would diminish the efficient use of this spectrum. Motorola requests we affirm that we are not contemplating air-time as the measure of channel occupancy.

B. Decision

Wide Area Systems

7. The Commission has considered the various points raised by the petitioners regarding loading. With regard to the subject of wide area systems for public safety and public utility licensees, we conclude there is merit to allowing satellite stations to have primary status. We do not reach this conclusion easily, however, because in some respects it will diminish our ability to maximize the number of licensees who can use this spectrum. On the other hand, we must assure that communications systems which promote public safety can be implemented in ways which, in fact, permit them to be useful and serve the entire population for which they have responsibility. As is stated in the Conference Report accompanying the Communications Amendments Act of 1982, "The Commission should be ever vigilant to promote the private land mobile spectrum needs of police departments and other public agencies which need to use such radio services to fulfill adequately their obligations to protect the American public." [10] After weighing this matter, we are amending our rules to grant, on a "first-in" basis, primary status to satellite stations operating in wide area trunked 800 MHz systems authorized to public safety agencies and public utility companies. This action, we believe, recognizes the possible needs of these licensees to serve larger geographic areas than can be reached by a single central base station, as well as their need to have the certainty of knowing, for planning purposes, that all the stations which comprise the system will be able to operate with primary status.[11]

Conventional System Loading

8. Turning to Motorola's requests, we have had a good deal of experience in the years since we first authorized conventional 800 MHz systems in various approaches to conventional system loading. Previous rules varied both by radio service and geographic area so that there were different loading levels between, for example, an urban police department and a rural police department, as well as between an urban police department and other urban industrial users. There were also different loading levels for eligibles within 75 miles of the top 25 urban markets and for those beyond. There were other variations also defined by the number of licensees authorized for a channel. In our *Second Report and Order*, we considered the complexity of these various rules, as well as the entire issue of appropriate loading levels for various types of conventional systems. We concluded that in the Business Radio Service the loading should come down, in the public safety services it should go up, and that the level required of industrial users was about right, on an average, for all conventional system licensees. We thus adopted a uniform conventional channel loading standard of 70 mobile transmitters per channel, which was supported by the Land Mobile Communications Council speaking for the preponderance of the land mobile licensees.

9. Motorola asks us to reconsider this decision and lower the number of mobile station transmitters which will secure a conventional channel for a licensee(s) on an exclusive basis.[12] It argues the quality of service is too low (i.e. the time which licensees must wait for an unused channel is too long) if 70 mobiles is the minimum level for conventional channel exclusivity. We have reconsidered this point and find nothing new in Motorola's submission which persuades us to change our earlier decision. We recognize that there is no perfect figure for conventional channel loading, and that the particular circumstances surrounding the operation of individual stations could require an optimal loading level higher or lower than the figure we have chosen. However, 70 mobile transmitters appears to us to be a reasonable figure which has the general support of the user community and has worked reasonably well from an administrative perspective. We see little benefit to changing it, with the attendant disruption entailed, for yet another figure which is no more precise than the existing one. Motorola, moreover, has

[8] A wide area system is a system which seeks to protect a larger geographic area than the circle with a 20 mile radius generally contemplated by the rules. An example would be a police department or power company whose obligations include serving outlying areas. The wide area system typically can operate in two ways: (1) The satellite base stations can operate on different frequencies than the primary or central base station; or (2) the satellite station can operate on some or all of the same frequencies assigned to the central base station. At issue before us is the narrow question of the status of these satellite base stations when licensees of trunked systems seek to "re-use" at secondary locations the same channels used at the primary base station. Since primary base station frequencies are generally assigned for re-use at 70 mile intervals, if a wide area licensee's satellite stations have primary status, then it necessitates spacing more than 70 miles from the primary site before another licensee can re-use the frequencies. 47 CFR 90.366(h) now provides: "Wide area systems may be authorized . . . upon an appropriate showing of need. If the licensee wishes to operate remote or satellite stations on some or all of its authorized trunked frequencies, these systems will be authorized only on a secondary, non-interference basis to co-channel licensees."

[9] In the *Second Report and Order* a uniform conventional channel loading standard of 70 mobile station transmitters per channel was established on a nationwide basis, with no differential based on population density. However, enforcement of this loading standard for purposes of retaining channel exclusivity only is triggered when no spectrum is available for assignment. Cf. 47 CFR 90.633(a) which provides: "Conventional systems of communication will be authorized on the basis of a minimum loading criteria of 70 mobile stations for each channel authorized."

[10] Conference Report No. 97-765, 97th Cong., 2d Sess., August 18, 1982, p. 52, reprinted in 1982 U.S. Code Cong. & Ad. News 2261, 2296.

[11] Notwithstanding our decision to accord the satellite stations in wide area trunked systems of public service agencies primary status when they reuse frequencies, we are not requiring that the satellite station be treated as primary stations for mobile loading purposes. Thus, we will continue to count the total number of base stations frequencies and the total number of mobile stations in a given system to determine if our loading standards have been met. Cf. 47 CFR 90.366(h) and 47 CFR 90.631(e).

[12] 47 CFR 90.633(b) provides: "A channel will not be assigned to additional licensees when it is loaded to 70 mobile stations. Where a licensee does not load a channel to 70 mobiles the channel will be available for assignment to other licensees. All authorizations for conventional systems are issued subject to this potential channel sharing condition."

not demonstrated that there is a better figure. Rather it only asserts our present figure is too high. In light of the apparent general satisfaction with our existing figure, and the lack of demonstrable evidence that another is superior, we decline to modify our present channel loading figure of 70 mobile stations per conventional channel.

Trunked System Loading

10. In the process of reviewing the loading standards issue in response to Motorola's petition, we have also re-examined the trunked system loading standards established in the *Second Report and Order* in this proceeding. Based on this analysis, and our experience in administering the new rules adopted in this proceeding, we are persuaded that some modification in the trunked loading standards is necessary if trunked systems are to flourish at 800 MHz. As is set forth in great detail in our proceeding in Docket No. 18262, *supra* n. 2, one of our major objectives for 800 MHz was the introduction of channel trunking technology. To this end we established rules to allow licensees to build their own communications systems or to avail themselves of the services of private radio communications providers (*i.e.*, the licensees of SMR systems).[13] Unfortunately, our early experience was that applicants, particularly commerical provider applicants, requested far more spectrum than they could put to use in the immediate future. This resulted in there being no spectrum available for new applicants, particularly new SMRS applicants, and no spectrum available in many areas of the country for existing licensees who wanted to expand already operating trunked systems. To remedy this, in our *Second Report and Order* in Docket 79-191, we limited the number of channels SMRS applicants proposing commercial communications service to others could request to five channels at a time. We also adopted rules to facilitate our recovery of channels from licensees who were holding, but not loading, channels. We are mindful, however, that the effect of this approach, particularly in the private carrier area, is to make the operation of ten, fifteen and twenty channel trunked systems more difficult. This is counterproductive to the greatest efficiencies from trunking, which occur in the largest systems. The policy was necessitated, however, by our need to balance a few licensees with unloaded larger trunked systems against a marketplace in which a large number of smaller trunked systems compete in the offering of radio communications service to small businesses and other eligibles. We concluded greater competition in the offering of service was more desirable. We continue to believe this conclusion was correct.[14]

11. Simultaneously with our decision to limit SMRS applicants to five channels at a time, we adopted rules which required trunked licensees to load their channels to specified levels in specified periods of time with mobile transmitters, or face the loss of channels.[15] We are aware that there is a severe economic penalty paid for failure to meet the channel loading standards for trunked systems because channels are lost when the standards are not met. Thus, system capacity is reduced to the economic detriment of the base station licensee and to the injury of the mobile station licensees operating on the systems in the case of an SMRS. If licensees have made significant strides in loading their channels and have fallen somewhat, but not significantly, short of the required channel loading goal, we think some leeway should be provided. The balance, however, is difficult. On the one hand we desire more efficient radio systems, and the larger the number of channels a trunked system has, the more mobiles it can accommodate *vis-a-vis* a conventional system. On the other hand, to allow licensees who have ten, fifteen, and twenty trunked channel assignments to keep the excess over five, when they have not even loaded the five and when other applicants are waiting, does not serve the public interest because the effect of this is to prevent other competitors from coming in to serve the small business user market. *See P&R Temmer*, FCC 83-171 (released May 16, 1983) and *AAT Electronics Corp.*, FCC 83-170 (released May 16, 1983). The measure of channel usage we employ in our rules is the number of transmitters authorized for use on the channels. In counting these transmitters, however, we count only mobile and portable stations, not control stations. But, a control station is an "immobile" mobile station.[16] The control station communicates on the system's channels in precisely the same way a mobile station does. Moreover, the number of control stations licensed to a user is small in proportion to the number of mobiles, in most circumstances, so that the effect of counting control stations as well as mobile stations for purposes of meeting our trunked channel loading standard will be to ease slightly the loading standard. Therefore, we have decided that control stations will be counted to determine the loading level of trunked systems only. This, we envision, should have the benefit of permitting otherwise almost loaded trunked systems to reach the standard through counting their control stations for channel loading purposes. It will thus permit preserving intact the basic five channel grant in circumstances where there has been substantial compliance with our mobile loading rules. Although we recognize that this change will, in effect, reduce the trunked system loading standard in the short run, since we have removed all restrictions as to the number of mobile transmitters which may operate on a trunked system, and since there is an economic incentive for SMRS licensees to enhance profits by maximizing system loading, we expect this will not result in lower loading levels for trunked systems in the long run.

12. We are not, however, adopting the same approach for conventional system loading. These systems do not suffer an absolute loss of channels when they fail to meet the loading standards, and we find no reason to modify their loading levels downward by including control stations in their loading count. These systems are not as efficient in the numbers of mobiles they can handle on a given amount of spectrum as trunked systems and they do not, from the Commission's perspective, maximize spectrum use in the way trunked systems do. We believe 70 mobile stations is an appropriate number of mobile stations to operate on a conventional base station channel (See paragraphs 8 and 9 above). Moreover, as noted in our *Second Report and Order*, in some instances we lowered the loading levels for conventional systems. Further reduction in loading levels by the counting of control stations is not warranted and is unnecessary to any regulatory purpose. In the absence of

[13] See Docket No. 18262 and *NARUC* v. *FCC*, *supra*, for the history of the creation of private carrier systems.

[14] Moreover, as the marketplace settles, we expect that larger trunked systems will come into existence through buy-outs, mergers, etc.

[15] 47 CFR 90.631(b) provides: "Each applicant for a trunked system shall certify that a minimum of 60 mobiles for each channel authorized will be placed in operation within 3 years of intial license grant, and that a minimum of 80 mobiles for each channel authorized will be placed in operation within 5 years of initial license grant. If at the end of three years or five years a trunked system is not loaded to the prescribed levels and a waiting list exists in the system's geographic area authorization for channels not loaded to 100 mobile stations cancels automatically. All authorizations are subject to this condition."

[16] 47 CFR 90.7 defines a control station as: "An Operational Fixed Station, the transmissions of which are used to control automatically the emissions or operation of another radio station at a specified location."

this, we will continue our existing approach for conventional systems loading.

13. In further considering the principles to govern loading of trunked systems, we also have decided to modify two other rules. First, we will allow licensees of existing systems to apply for admission to the waiting list for the 200 trunked channels governed by Subpart M when their systems are 70% loaded. Our present policy requires licensees to be 90% loaded before they apply for additional channels. Many have contended that in light of the waiting time for additional channel authorization, this imposes a long period of poor quality service for their subscribers. They contend, if they could at least get on the waiting list sooner, it would be beneficial. We agree. We caution, however, no channels will be authorized to persons on the waiting lists unless already authorized channels meet our loading requirements. If they have not loaded, applications will be dismissed at the time they reach the top of the list.

14. Second, we are modifying our rules to permit a licensee to obtain additional trunked channels in a market area when its existing system is loaded to 80% of the loading standard of 100 transmitters per channel. We believe that the current requirement that trunked systems be loaded to 90% before additional channels are authorized unnecessarily imposes a reduced service quality on system users. This is especially true as the loading standard is approached on a five channel trunked system since the efficiency of trunked systems increases with the number of channels. Because a trunked system licensee must load its system to 80% of the loading standard in order to retain channel exclusivity, it is reasonable to authorize additional channels for these systems when the loading standard is satisfied.

Urban/Rural Distinction

15. With regard to the urban/rural loading distinction which Motorola requests, we clearly took cognizance of this matter by adopting rules relating to channel exclusivity which were activated only by the lack of spectrum in a particular geographic area.[17] Thus, there is no penalty attached to a licensee's failure to meet our loading levels nor is there any bar to a licensee being authorized additional channels even though the 70 mobile transmitter per channel standard is not met, until the time arrives when there is no spectrum available for other applicants who seek to implement radio systems. At that point, if a licensee has not loaded a channel to the level of mobile transmitters required by the rules for channel exclusivity (i.e. 70), other licensees will be "loaded on top of the system", that is, other licensees will be authorized radio transmitters on the same channel. Since channel sharing is common in the private land mobile services in the bands below 800 MHz,[18] this is not an uncommon occurrence to the land mobile community and, in most circumstances, works little or no unmanageable harm on licensees. Also, since land mobile spectrum shortages generally occur in urban areas, in most rural areas there is little likelihood that all available spectrum will be exhausted. Therefore our rules do permit, in effect, lower channel loading levels for typical rural users. However, in our estimation, the true test of the need to meet the loading standard is not keyed to locale, but rather to the radio operating environment in the locale. Thus, in rural areas where there is high spectrum demand, we believe the loading levels should be the same as it is in urban areas where there is high spectrum demand. We, therefore, affirm our existing rules and decline to adopt different loading levels based on urban/rural distinctions.

Air Time As a Measure of Channel Occupancy

16. The issue of how the Commission should measure and assure that licensees are making efficient and effective use of the radio frequencies for which they have been authorized is one of the most difficult and recurring questions we have faced throughout this proceeding. No one disputes that there should be some established measure of efficient and effective spectrum use. There is little or no unanimity, however, on what constitutes such use. As a general proposition, public safety users maintain that a channel is being efficiently and effectively used when it is immediately available on a clear channel basis when an emergency arises. Others maintain that a channel is efficiently and effectively used when it is occupied by a signal a large percentage of the time. Still others contend not only that the channel must be occupied, but that it must be occupied by a technology which maximizes the number of mobile stations which can operate on the channel. A variety of other tests and refinements have also been considered. In 1974, we adopted as the test the number of mobile transmitters which are authorized on a channel. We then required that applicants who sought channels on an exclusive basis would have to load their channels with a specified number of mobile transmitters in a specified period of time or they would forfeit channels.

17. Air time, or the establishment of a standard which would permit licensees to demonstrate through the measurement of actual use of the channels that the spectrum was being used efficiently independent of the number of transmitters authorized on a channel, is another possible alternative measure of spectrum utilization. However, if air time were to be allowed as a substitute for station loading as the measure of efficient spectrum use in these services at 800 MHz, it would require, as a prerequisite, the development of standards for computing what measure(s) of air time would constitute "efficient use". Moreover, while some commenters supported such an approach, there was little or no serious discussion of whether there should be uniform standards, or standards by various services, nor what these standards should be and how they might be developed. Lacking data on most of these points, we declined in our *Second Report and Order* either to adopt an air time approach or to embark on further rule making in this regard. Instead, we decided to retain our existing approach which we felt was just as valid a measure of efficient spectrum use, and which was much easier to administer. We reiterate that view on reconsideration.[19]

Paging/Technical Flexibility

A. Discussion

18. Three petitioners, Motorola, NABER, and Telocator request reconsideration of the Commission's decision to allow the 800 MHz private land mobile two-way channels to be used for paging. Both Motorola and NABER request that we expand our approach to extend eligibility to transmit pages to multiple licensed

[17] At paragraph 86 of our *Second Report and Order* we stated: "This mobile loading minimum will apply in all areas of the country (i.e., there is no distinction between the top 25 urban areas and other locations) and it will apply to all conventional radio systems, regardless of the category of eligibility of the licensee. However, in areas where waiting lists for conventional channels do not develop, a licensee may be assigned additional channels upon an appropriate showing of need even though an already licensed channel is not loaded to 70 mobile units."

[18] See 47 CFR 90.173.

[19] Motorola requested that the Commission affirm its authority to cancel licenses automatically in the event systems are not constructed or loaded as prescribed in the rules. This matter has already been addressed in *P&R Temmer* and *AAT Electronics Corp., supra.*

systems commonly referred to as "community repeaters." [20] Telocator, on the other hand, argues that the issue of paging was outside the scope of the *Further Notice of Proposed Rule Making* in this proceeding.[21] Therefore, Telocator suggests that by changing the rules to permit paging, the Commission has violated the Administrative Procedure Act.

19. Motorola, in its petition, argues that the option to use paging should be extended to all types of shared systems, and not restricted to SMR systems and licensees of exclusive channels. The Motorola petition goes on to point out that licensees may have a legitimate need to page as well as engage in two-way communication, and should not be forced to employ separate systems for each type of communication. Paging, Motorola asserts, should be permitted on shared channels on a co-equal basis to two-way communication. Motorola, while preferring unrestricted paging authorization, concedes that reasons may exist to require prior consent of all licensees of a multiple licensed transmitter prior to allowing paging.

20. NABER argues that the Commission did not explain why a distinction was drawn between paging on an SMRS system and paging on a community repeater. NABER would extend paging eligibility to licensees of community repeaters on a secondary basis to two-way communication. NABER suggests that the secondary status would make paging use compatible with the primary two-way use.

21. Telocator's petition argues that the Commission failed to provide "fair and adequate notice" that it was considering expansion of paging privileges from licensees of exclusive channels to SMR systems and, therefore, violated the rule making procedures required by the Administrative Procedure Act. Telocator suggests that expansion of eligibility to page in these bands constituted a major transformation of permissible transmission modes, and should have been addressed explicitly in the *Further Notice of Proposed Rule Making* in this proceeding.

B. Decision

22. The Telocator petition argues that modification of our 800 MHz rules to allow paging on SMR systems constitutes a major change in our rules, and therefore is subject to the notice and comment procedures established in the Administrative Procedure Act. The Commission agrees that this change is subject to notice and comment procedures, and we are satisfied that the requirements of the APA have been fully satisfied. In paragraph 73 of the *Further Notice of Proposed Rule Making* in Docket 79-191, we stated specifically that "we believe it would be advantageous to allow flexibility in choosing the type of emission mode to be used and the amount of bandwidth to be occupied." In paragraph 78 of the same document we indicated our intention as follows: "We propose to eliminate all restrictions on non-voice and other specialized operations." This increased technical flexibility was proposed in Docket 79-191 for channels assigned for the exclusive use of a single licensee, SMR systems, and shared systems in which all licensees agree to the intended use of the channels. Since paging is clearly a non-voice or specialized operation, there is no question that adequate notice was provided in this proceeding of our intention to permit any type of emission mode or specialized operation which the licensee(s) found feasible. We proposed this capability extend to single licensee systems, SMR systems, and shared systems in which all licensees agree to any particular use of the channel, including paging. We therefore reject Telocator's assertion that we have not complied with the requirements of the APA, and conclude that our stated intention to eliminate all restrictions on non-voice and other specialized operations on these frequencies encompassed paging, and satisfied the prior notice and comment requirements of the APA.

23. Turning now to the arguments made by Motorola and NABER to extend paging to shared channels, we find them persuasive. Moreover, NABER's request that we accord such operations secondary status by requiring the prior consent of all those licensed for the channel allays our concerns about interference. Therefore, we are relaxing these restrictions on technical flexibility imposed in the *Second Report and Order*, and are extending full technical flexibility, including the option for paging, to shared systems in which all licensees agree to the intended use of the channel. This action, we believe, serves the public interest by maximizing the use which licensees can make of the spectrum authorized to them, consistent with our regulatory objectives.

Extended Implementation

A. Discussion

24. Three petitioners, LMCC, Motorola and NABER, request that the Commission reconsider the eligibility requirements for extended implementation schedules.[22] The rules adopted in the *Second Report and Order* allow extended implementation schedules of up to three years only in the Public Safety/Special Emergency and Industry/Land Transportation pools. No such provision was made for eligibles in the Business Radio Service. All three petitioners argue that eligibles in the Business Radio Service also should have the flexibility to elect an extended implementation schedule, since they too face similar problems in implementing large complex communications systems.

25. LMCC proposes that the rules be modified to indicate that although extended implementation schedules are not normally available in the Business Radio Service, it would be allowed in circumstances in which the criteria which apply in the Public Safety/Special Emergency and Industrial/Land Transportation pools are met. Motorola proposes two alternative changes: (1) Eliminate the exclusion of Business Radio Service eligibles, but require a more stringent showing than is required in the other two service pools which permit extended implementation; or (2) retain the exclusion, but acknowledge that legitimate needs for extended implementation may exist within the Business category and that these needs may be accommodated through the waiver process. NABER supports the rule change as proposed by LMCC. However, NABER requests that Business category applicants for extended implementation schedules be required to demonstrate that they are not eligible in the Industrial/Land Transportation category.

B. Decision

26. At the time the "slow growth" rules were adopted in this proceeding, it was not apparent that applicants in the Business Radio Service would require the flexibility to elect extended implementation schedules. Moreover, during the comment period no one asked for slow growth capability for Business Radio Service systems. Consequently, when we adopted our *Second Report and Order*, this option was not made available to eligibles in the Business Radio Service. However, we are persuaded by the three petitioners on

[20] For a discussion of multiple licensing see *Report and Order*, Docket No. 18921, 47 FR 19527 (May 5, 1982); *on reconsideration, Memorandum Opinion and Order*, Docket No. 18921, 48 FR 28617 (June 9, 1983).

[21] *Further Notice of Proposed Rule Making*, PR Docket No. 79-191, 46 FR 37827 (July 23, 1981).

[22] 47 CFR 90.366(g) and 90.629.

this issue that the current rules may be unduly restrictive with respect to applicants whose sole eligibility is in the Business Radio Service. They indicate that some applicants may have requirements for extended implementation periods and that the rules should be modified to meet those requirements. Furthermore, subsequent to the adoption of the *Second Report and Order* in this proceeding, a Business Radio Service eligible, IBM, sought and obtained a waiver of the current restriction against extended implementation schedules in the Business category.[33]

27. Therefore, in further considering this point, we are modifying the rules to permit extended implementation schedules by eligibles in the Business Radio Service. Business eligibles will be subject to the same showings as eligibles in the Public Safety/Special Emergency and Industrial/Land Transportation categories. We are also adopting the restriction suggested by NABER which would require applicants for extended implementation schedules in the Business category to demonstrate either that they are not eligible in the Industrial/Land Transportation category, or that no frequencies are available in the Industrial/Land Transportation category. This is equitable, we believe, in view of the fact that Business Radio Service eligibles often have no options but the Business category frequencies, while Industrial/Land Transportation Radio Service eligibles may have several options.

Comparative Criteria

A. Discussion

28. Three petitioners, APCO, Motorola, and NABER request that the comparative criteria discussed in paragraph 208 of the *Second Report and Order* in this proceeding be modified.[34]

29. APCO suggests that the Communications Amendments Act of 1982 compels the Commission to establish criteria which would take into consideration the degree to which a particular proposed radio system was necessary for the safety of life and property. APCO requests that the comparative criteria be expanded to encompass public safety considerations, or that eligibility in the Special Emergency Radio Services be restricted to governmental entities.

30. Motorola makes two suggestions regarding the comparative criteria. First, it requsts that the Commission specifically identify the types of evidence sought to support the third criterion. Second, Motorola would add a criterion which addresses the quality of service. It proposes, as a suggestion, that a dispatch-only service be preferred over a competing service which is interconnected with the telephone network.

31. NABER suggests that the criteria are too general to narrow the number of competing applications. In its petition, NABER indicates that it is its impression that the criteria are intended to apply exclusively to trunked systems. Also, the second and third criteria, which appear to favor existing system operators over new applicants, are not justified adequately in NABER's view. NABER also points out that the Commission is silent regarding the means to be used to measure the third criterion. Finally, NABER is concerned that the criteria do not appear to be applicable to the three non-SMRS service categories. No specific recommended changes are included in the NABER petition.

B. Decision

32. When the *Second Report and Order* in this proceeding was adopted, it was anticipated that only in the SMRS category would more applications be received initially for channels than were available. The three criteria were drafted essentially for use in selecting among applicants within the SMRS category. The applications which were filed pursuant to the *Second Report and Order* in fact bear out the Commission's projections. There were no categories in any geographic area of the country in which the number of applicants exceeded the number of available frequencies, except in the SMRS category. In light of this, APCO's petition on this point is moot, and we will not promulgate comparative criteria for categories other than the SMRS category at this time. If at a later date frequency shortages arise in other categories, we will promulgate the comparative criteria to govern the selection process in those categories.

33. With regard to the SMRS category, we agree with Motorola and NABER that the third comparative criterion enumerated in our *Second Report and Order* may be difficult to quantify. In addition, the use of this criterion could result in some applicants making inflated promises to gain a comparative advantage. We do not want the comparative criteria to create incentives for applicants to speculate or make overly optimistic representations to the Commission. Consequently, we have decided to eliminate the third criterion as a factor in selecting among applicants for channels in the SMRS category.

34. The two remaining criteria: (1) the efficiency of the proposed system; and (2) whether the application would expand a fully loaded trunked system, are both predicated on the Commission's desire to foster more efficient use of the spectrum. The higher efficiency of trunked systems relative to conventional systems is a well established fact. A review of the various theoretical trunking formulas indicates that any increase in the number of channels in a trunked system results in a corresponding increase in the communications capacity per channel of that system. However, it has occurred to us that there may be some confusion in applying the first criterion. Our intent in the *Second Report and Order* was to award a comparative advantage for trunked operation. Therefore, we are modifying the first criterion to read as follows: whether the proposed system is conventional or trunked.

35. Motorola's suggestion to add a criterion which would prefer a non-interconnected system over an interconnected system has been considered. However, the Commission is not persuaded that it would be in the public interest to restrict user choices by preferring non-interconnected systems over interconnected systems. To the contrary, this entire proceeding has been predicated on a regulatory philosophy which seeks to maximize the communications choices and options available to private land mobile licensees in meeting their communications needs in recognition of the fact that thereby the totality of public service is enhanced through more efficient operation. Motorola's suggestion would appear to be contrary to this philosophy, and we reject it.

36. The two comparative criteria will be given equal weight in evaluating the qualifications of applicants in the SMRS category and awarding comparative points during expedited hearing proceedings in these cases. One point will be awarded to each applicant proposing to operate a trunked system. Applicants proposing to expand existing loaded trunked systems also will be awarded one point. Therefore, each applicant will receive two, one, or no comparative points based on the above criteria. No fractional points will be awarded to any applicant. Applications

[33] *Order*, FCC 83-104, adopted March 10, 1983.

[34] The three criteria were (1) the efficiency of the proposed system including whether it is conventional or trunked; (2) whether the application would expand a fully loaded trunked system, with larger trunked systems being favored; and (3) whether an applicant would exceed the loading requirements by either loading faster or accommodating more mobile units than specified in the Rules.

will be ranked based on the number of comparative points awarded, and grants will be made first to those applications with the most comparative points. If sufficient channels are not available in a geographic area to grant all SMRS applications with the same number of comparative points, grants among this tied group will be made in accordance with the Commission's random selection procedures described in the *Second Report and Order* in General Docket No. 81-768, 48 FR 27182 (June 13, 1983).

Equipment Manufacturer SMR Ownership

A. Discussion

37. Two petitioners seek reconsideration of the Commission's decision to eliminate the restriction regarding licensing of trunked SMR systems to RF equipment manufacturers. Johnson and Telocator request that the Commission reinstate the previous rules which restricted RF equipment manufacturers to ownership of only one trunked SMR system in the country. In addition, NMRA has indicated its opposition to the Commission's action on this issue in a Petition for Review to the U.S. Court of Appeals for the District of Columbia.[25]

38. Johnson and Telecator argue that contrary to the Commission's assertion that manufacturer entry into the trunked SMR market will be procompetitive, such entry will be anti-competitive. Johnson cites the dominant position of Motorola in the land mobile market as evidence that Motorola has market power and could use such power to eliminate competing trunked SMR systems. Telocator refers to the comments in PR Docket 79-107 [26] as evidence of the market power and anti-competitive conduct of Motorola, and claims that the Commission cannot simply dismiss these filings as unsubstantiated allegations, but must investigate these claims to determine their validity before dismissing them. Telocator goes on to suggest that equipment manufacturers be required to create a separate subsidiary for their trunked SMR operations, if the Commission decides to affirm its decision to permit their entry into this market.

39. NMRA, in its appeal, has argued that the Commission removed the restriction on manufacturer ownership without a record to support such an action. Furthermore, it asserts that manufacturers may offer communication service at prices which are below cost, in order to encourage sales of mobile radio equipment. This cross subsidization, NMRA claims, will result in the economic destruction of many SMRS operators, and the emergency of an SMRS industry dominated by RF equipment manufacturers.

B. Decision

40. The Commission has carefully considered the information presented on reconsideration of this issue and is affirming its decision to eliminate the restriction on RF equipment manufacturer ownership of trunked SMR systems. Johnson asserts that because Motorola has market power in the land mobile market, Motorola will necessarily use this power in an anticompetitive manner. As we clearly stated in the *Second Report and Order* in this proceeding, we believe that the tangible public interest benefits of relaxing the restrictions outweigh the speculative anti-competitive risks.[27] Furthermore, we feel that existing antitrust laws provide adequate protection against any possible anti-competitive activity on the part of equipment manufacturers.

41. In examining this matter we have reviewed case law pertaining to competition in the communications field. While the subject matter before us involves private carriers, and while the considerations between private and common carriers differ, we think some useful guidance regarding our statutory obligations can be gleaned. Thus, while decisions of the Supreme Court and the Court of Appeals for the District of Columbia Circuit establish that the Commission may not authorize competitive duplication of communications facilities on the mere assumption that competition is, as a general proposition, a good thing,[28] it is equally clear that the Commission may lawfully allow, and indeed encourage, entry of multiple licensees offering overlapping services, if it has reviewed that characteristics of the particular communications filed involved and rationally concluded that competition in that field is reasonably feasible and predictably would further the public interest in larger, more economical, and more effective communications service.[29] The test which the courts have established is first that the Commission must be able reasonably to forecast that new entry will not so severely impair the economic base of existing licensees that the industry would experience an incidence of failure so high as to impair the overall provision of service [30] and, that injection of new providers will probably result in better, cheaper, or more innovative communications offerings.[31] These forecasts must have some ascertainable foundation in the record; at the same time, however, conclusions on the future conduct of licensees, the anticipated reaction of investors, the expected course of technological development, and other assumptions about the functioning of tomorrow's communications market are unavoidable exercises in prediction.[32] Recognizing this, the Courts have held that the Commission has satisfied its statutory obligations if:

> The agency's decisional memoranda reveal that it identified all relevant issues, gave them thoughtful consideration duly attentive to comments received, and formulated a judgment which rationally accommodates the facts capable of ascertainment and the policies slated for effectuation.[33]

---

[25] *National Mobile Radio Association* v. *Federal Communications Commission*, Petition for Review, U.S. Court of Appeals for the District of Columbia, No. 82-2095, September 17, 1982; *NMRA* v. *FCC*, Application for Stay Pending Review, U.S. Court of Appeals for the District of Columbia, No. 83-2095, October 6, 1982; *NMRA* v. *FCC*, Applicaltion for Reinstatement and Consideration of National Mobile Radio Association's Application for Stay Pending Review, U.S. Court of Appeals for the District of Columbia, No. 82-2095, November 17, 1982.

[26] *Notice of Inquiry*, PR Docket 79-107, FCC 79-283 (May 12, 1979).

[27] *Second Report and Order*, PR Docket 79-191, 90 FCC 2d 1281 (1982), 47 Fed. Reg. 41002 (September 16, 1982), paragraphs 128-129.

[28] See *FCC* v. *RCA Communications*, 346 U.S. 86, 73 S. Ct. 998, 97 L.Ed. 1470 (1953); *Hawaiian Tel. Co.* v. *FCC* 162 U.S. App. D.C. 229, 498 F.2d 771 (1974); *U.S.* V. *FCC, 652 F.2d 72 (1980); See also FCC v. Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 84 L.Ed. 869 (1940); *WLVA, Inc.* v. *FCC*, 148 U.S. App. D.C. 262, 459 F.2d 1286 (1972); *Carroll Broadcasting Co.* v. *FCC*, 103 U.S. App. D.C. 346, 258 F.2d 440 (1958).

[29] See *FCC* v. *RCA Communications*, *supra*, 346 U.S. at 96-97, 73 S. Ct. at 1004-1005, 97 L.Ed. at 1478-1479; *Western Union Tel. Co.* v. *FCC*, 214 U.S. App. D.C. 308, 325-326, 665 F.2d 1126, 1143-1144 (1981); *RCA Communications* v. *FCC*, 99 U.S. App. D.C., 163, 258 F.2d 24 (1956) (proceedings on remand), *cert. denied*, 352 U.S. 1004, 77 S. Ct. 563, 1 L.Ed. 2d 549 (1957).

[30] *Carroll Broadcasting, Co.* v. *FCC*, 103 U.S. App. D.C. 346, 349, 258 F.2d 440, 443 ("economic injury to an existing station, while not in and of itself a matter of moment, becomes important when on the facts its spells diminution or destruction of service"). *Accord*, *FCC* v. *Sanders Brothers Radio Station*, 309 U.S. at 476 60 S. Ct., at 698, 84 L.Ed. at 874-875; *WLVA, Inc.* v. *FCC*, 148 U.S. App. D.C. at 273, 459 F.2d at 1297; *Telocator Network of America* v. *FCC*, 691 F.2d 525 (1982).

[31] See *FCC* v. *RCA Communications*, *supra*, 346 U.S. at 97, 73 S. Ct. at 1005, 97 L.Ed. at 1479 ("the Commission must at least warrant, as it were, that competition would serve some beneficial purpose such as maintaining good service and improving it").

[32] *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582, 594-596 (1981); *FCC* v. *RCA Communications*, *supra*, 346 U.S. at 96-97, 73 S. Ct. at 1005, 97 L.Ed. at 1478-1479.

[33] *Telocator Network of America* v. *FCC*, *supra*, 691 F.2d at 545.

42. In our *Second Report and Order*, we explained the original rationale for the restriction on manufacturers' entry and the limited intended duration of this restriction. We stated how circumstances has changed and what policy objectives we felt the change in the rule would accomplish. We also noted the lack of consensus in the comments. However, after analying all of the evidence before us, we concluded that allowing equipment manufacturers to compete on an equal basis with all other SMRS entrepreneurs would enhance competition in the offering of private land mobile communications, thus benefiting all users and the public at large; would enhance spectrum utilization; would result in enhanced operation efficiency and better service; and could result in the offering of private carrier service in market areas in which trunked technology is not currently available.[34]

43. Notwithstanding the positions taken in the petitions for reconsideration, we conclude we have satisfied the standards established by the Congress and the courts. For the reasons discussed in the *Second Report and Order* we affirm our conclusion that conclusion that competition in the SMRS area will further the public interest in larger, more economical and more effective communications service by resulting most probably in better, cheaper and more innovative service offerings. In reaching this conclusion based on the record before us, both then and now, we do not find any substantiation of the allegation that these new entrants will so severely impair the economic base of existing carriers that the industry would experience an incidence of failure so high as to impair provision of service to those persons which existing private carriers are authorized to serve.

44. Telocator argues that we have not done enough. In effect, it would require us conclusively to disprove its allegations of harm to existing SMRS's. Telocator has misperceived our duty, however. As the Court of Appeals noted in *Telocator* v. *FCC, supra:*

> We have no doubt that some or all of these arguments raised concerns that would have been quite relevant if accompanied by supporting statistics or other documentation. Having chosen not to substantiate its claims, however, Telocator cannot here complain that the Commission continued to stand on facts and figures in its possession. To be sure, an agency has some affirmative obligation to ensure that is has materials sufficient to enable an informed and reasonable decision. But, however broad the scope of this inquisitorial duty may be, it clearly does not extend to ferreting out evidence within the grasp of a commenting party merely on that party's claim that such evidence exists and controverts materials already before the agency.[35]

45. By expanding the number of available frequencies, as well as the entities that could provide service, we significantly enlarged the opportunity for marketing private land mobile communications. We concluded that this new entry carried the potential for operations of higher caliber and lower cost, as well as the impetus for technological advancement. The courts have consistently held that such expectations, when rooted in the agency's informed assessment of the trends and needs of the industry, can form valid and reasonable bases for adoption of an open entry policy, even though they are necessary predictions incapable of absolute proof.[36] In reaching these decisions we identified in our *Second Report and Order* the relevant issues, gave them thoughtful consideration and formulated our judgment on them based on the public interest policies we sought to effectuate. On reconsideration, no additional facts have been brought to our attention that cause us to alter our previous conclusions. We therefore reject Telocator's and NMRA's assertions.

46. Finally, we find no reason to adopt Telocator's suggestion that manufacturers be required to establish a separate subsidiary to operate trunked SMR systems. The Commission is reluctant to impose such a burden on manufacturers without a solid record to support such an action. Since there is no record to support such a requirement, and since Telocator provides no compelling arguments to support its suggestion, we reject it.

Termination of PR Docket 79–107

A. Discussion

47. Telocator, in its petition, argues that the Commission erred in closing PR Docket 79–107 (*Notice of Inquiry* regarding the licensing of community repeaters in the 800 MHz band) in the *Second Report and Order* in this proceeding. Telocator suggests that the Commission may not dismiss the comments submitted in that *Inquiry* without first investigating their validity.

B. Decision

48. As discussed above under the Equipment Manufacturer SMR Ownership issue, the Commission is not obligated to consider unsubstantiated allegations in its deliberations. Although Telocator asserts that there is substantial evidence related to entry barriers, bottlenecks, and anti-competitive practices by industry participants, it has provided no specific evidence of the alleged practices either in this proceeding or in its comments in PR Docket 79–107. The Commission examined and reviewed the information in PR Docket 79–107 and was not persuaded that any substantive evidence existed which demonstrated that the facts were as alleged or that the public interest would be disserved by terminating that proceeding. The Commission could not accept the general information and allegations contained in the comments to PR Docket 79–107 as evidence of actual or potential wrong doings. Although we stand ready to accept substantiated complaints which may be brought to our attention, none have been forthcoming. Therefore, we are affirming here our decision to terminate the proceeding in PR Docket 79–107.

Trunked SMR System Application Processing Procedures

A. Discussion

49. In its *Petition for Review* to the U.S. Court of Appeals, NMRA raises the issue of Commission treatment of applicants on waiting lists for trunked frequencies, an issue that was not raised by any petitioners on reconsideration. In order to present a complete discussion of the issues, NMRA's point will be considered below.

50. NMRA contends that the *Second Report and Order*, by creating a new rule subpart to govern the 250 channel pairs released in PR Docket 79–191, unfairly disadvantaged entities with applications pending for trunked SMR systems.[37] NMRA also contends that all channels for trunked SMR systems should be regulated in the same way. Therefore, NMRA would put all applicants for trunked SMR systems into a single queue for processing. NMRA's rationale is that the entire 600 channel allocation should be considered as a whole, rather than in the bifurcated approach taken by the Commission. NMRA argues that with the exception of RF equipment manufacturers, all those

[34] In fact, subsequent to our *Second Report and Order*, applications from RF equipment manufacturers were received and several trunked system licenses have already been granted to manufacturers in market areas in which trunked technology was not previously available.

[35] *Id.* at 546.

[36] *Id.* at 545.

[37] See *NMR* v. *FCC*, Application for Stay Pending Review, U.S. Court of Appeals for the District of Columbia, No. 82–2095, October 6, 1982, p.23.

who want to operate a trunked SMR system either are already licensed or are on a waiting list.[38] Consequently, if the Commission had not eliminated the restriction on manufacturer licensing, there would have been no need to deviate from the traditional first-come, first-served approach to application processing.

B. Decision

51. The Commission has carefully considered the arguments raised by NMRA and is affirming its decision to implement a bifurcated regulatory structure for 800 MHz. In essence, NMRA takes the position that the Commission lacks the power to alter its regulatory policies in light of changing circumstances. We reject such a circumscription of our authority. In our *Second Report and Order* in Docket No. 18262 which made the original spectrum allocation, we noted our intention to revisit the rules we were adopting and to adjust them if warranted.[39] Furthermore, the courts have long affirmed the Commission's power to adopt, at any time, new rules determined to be necessary for the orderly conduct of its business. The Commission is not inflexibly bound to regulations which it adopted in the past if it determines that public interest considerations warrant a change in the rules.[40] The Commission does not agree with NMRA that, with the exception of manufacturers, all those who wanted to operate trunked SMR systems have already been licensed or have applied for licenses. The land mobile industry has undergone many changes. It is clear from the extensive list of applicants for new SMRS channels in the major metropolitan areas that, contrary to NMRA's assertion, there are many applicants, in addition to manufacturers, who either have not been licensed or have not previously applied for authorizations to operate trunked SMR systems in particular geographic areas. Furthermore, the Commission carefully considered applicants on waiting lists in developing its modified regulatory structure for trunked SMR systems. The conflicting goals of dealing equitably with those applicants on waiting lists as well as potential applicants for the new channels were balanced. Under the approach adopted in the *Second Report and Order*, previous applicants for trunked SMR systems could retain their places in line for channels from the original 200 channel trunked allocation, and could apply for a grant from the 80 new channels released for SMR systems. New applicants could apply for old channels, and join queues behind prior applicants, or they could apply for new channels. We are convinced that this bifurcated approach provided the most equitable solution possible to the problem of balancing the interests of old and new applicants for trunked SMR systems against our regulatory objectives for 800 MHz.

Miscellaneous Matters

52. In accordance with our decisions upon reconsideration, we are amending, as indicated in the attached Appendix, rule §§ 90.366(h), 90.631(e), and 90.633(f) to permit primary status for remote or satellite stations in wide-area systems; §§ 90.366(a), 90.366(c) and 90.627(b)(2) to change certain trunked system loading requirements; § 90.366(g) and § 90.629 to permit extended implementation schedules in the Business Radio Service; and § 90.645(h), to extend paging capability to shared systems.

53. Additionally, we are amending several other rules to conform them to changes made as a result of non-rulemaking events. These are amendment of: § 90.611(c) and § 90.621(a) permitting conventional SMRS system applicants to utilize frequency coordinating committees;[41] and § 90.619(a)(1) and (b)(6) to reflect changes necessitated by existing 800 MHz agreements with Mexico and Canada. Finally, we are taking this opportunity to make several minor editorial changes, such as correcting typographical errors, inserting current form numbers, and clarifying ambiguous language, in our rules. With respect to these amendments, we find that good cause exists for dispensing with the notice and comment procedures of the Administrative Procedure Act, 5 U.S.C. § 553. Because these changes involve minor, noncontroversial amendments, public notice and comment is unnecessary. The following list tabulates the changes (as listed by paragraph number in the Appendix).

APPENDIX

Paragraph No.	Rule section	Change
1	1.925(h)	Clarification.
2	90.155(a)	Editorial.
3	90.354	Editorial.
4	90.356(a)	Editorial.
5	90.362	Editorial.
6	90.364(b)(2)	Clarification.
7	90.366(a)	Rule change.
	(c)	Rule change.
	(d)	Clarification.
	(e)	Clarification.
	(f)	Clarification.
	(g)	Rule change.
	(h)	Rule change.
8	90.376(a)	Clarification.
	(1)	Editorial.
9	90.492	Editorial.
10	90.605	Editorial.
11	90.611(c)	Clarification.
12	90.613	Editorial.
13	90.615	Editorial.
14	90.619(a)	Editorial.
	(a)(1)	Rule change.
	(b)(6)	Rule change.
15	90.621(a)	Clarification.
	(a)(1)(iv)	Editorial.
16	90.623(b)	Editorial.
	(c)	Editorial.
	(d)	Clarification.
17	90.627(a)	Editorial.
	(b)(2)	Rule change.
18	90.629 1st sent	Rule change.
	(b)	Clarification.
	(c)	Rule change.
19	90.631(a)	Editorial.
	(d)	Clarification.
	(e)	Rule change.
20	90.633(e)	Clarification.
	(f)	Rule change.
21	90.637(a)	Clarification.
	(1)	Editorial.
22	90.645(g)	Clarification.
	(h)	Rule change.

54. In summary, the Commission is affirming all aspects of the *Second Report and Order* in this proceeding, except for the following changes. First, eligibility to obtain Commission approval of extended system implementation schedules has been broadened to include the Business Radio Service. Second, paging will be permitted on multiple licensed systems, in those cases in which all system licensees agree to such transmissions on their assigned channel. Third, the comparative criteria to be used in cases in which applications are received for more SMRS category frequencies than are available are modified. Fourth, loading requirements for trunked systems have been modified to count control stations, and to permit trunked system licensees to obtain additional channels when their existing systems are loaded to 80% of the loading standard. Finally, several rules have been corrected to eliminate confusing and/or contradictory language and to clarify certain rules where necessary.

55. Accordingly, it is ordered That, effective December 8, 1983, Part 90 of the Commission's Rules is amended as shown in the Appendix, pursuant to the authority contained in Sections 4(i) and

[38] *NMRA* v. *FCC, op. cit.*, p.25.

[39] *Second Report and Order*, Docket No. 18262, *supra*, at para. 108.

[40] See *e.g. U.S.* v. *Storer Broadcasting Company*, 351 U.S. 192, 100 L. Ed. 1081, 76 S. Ct. 763 (1975). *National Broadcasting Co.* v. *U.S.*, 319 U.S. 190, 63 S. Ct. 997, 87 L. Ed. 1344 (1942).

[41] When the *Second Report and Order* was adopted, no entity was willing to serve as a frequency coordinator for conventional SMRS base stations. As a result, the option of using the services of a frequency coordinator was not explicitly included for SMRS eligibles. Subsequently, NABER offered its services and was recognized as the coordinator for conventional SMRS base stations in Public Notice No. 3950, May 3, 1983. Consequently, we are modifying our rules to include specifically the frequency coordination option for conventional SMRS base station applicants.

303 of the Communications Act of 1934, as amended. It is further ordered that the petitions for reconsideration and clarification in this proceeding are granted to the extent indicated herein and in all other respects are denied, and that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1 and 90 of 47 CFR are amended as follows:

PART 1—[AMENDED]

1. § 1.925 is amended by revising (h) to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

* * * * *

(h) An applicant for a radio station license under Part 90, Subpart M, of this chapter to utilize an already existing SMRS facility or to utilize an already licensed transmitter may operate the radio station for a period of up to 180 days, under a temporary permit evidenced by a properly executed certification of FCC Form 577 after the mailing of a formal application for station license, provided that the antenna(s) employed by the control station(s) is (are) a maximum of twenty feet above a man-made structure (other than an antenna tower) to which it (they) is (are) affixed.

PART 90—[AMENDED]

2. § 90.155(a) is revised to read:

§ 90.155 Time in which station must be placed in operation.

(a) All stations authorized under this part, except as provided in paragraph (b) and in §§ 90.366 (d) and (g), 90.629 and 90.631(c), must be placed in operation within 8 months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

* * * * *

3. § 90.354 is revised to read

§ 90.354 Forms to be used.

Applications for trunked radio facilities shall be submitted on FCC Forms 574 and 574–A, and such applications shall be filed with the Federal Communications Commission, Gettysburg, PA. 17325.

4. § 90.356(a) introductory text is revised to read:

§ 90.356 Supplemental information to be furnished by applicants for facilities under this subpart.

(a) Applicants proposing to provide trunked systems of communication to eligibles under this part on a commercial basis must, in addition to the information required by FCC Forms 574 and 574–A, furnish the following data and material:

* * * * *

5. In § 90.362, paragraph (a) is amended by revising the frequencies in Block 8 of Table 1 footnote 3 of Table 2 is revised, and paragraph (b) is revised in its entirety.

§ 90.362 Selection and assignment of frequencies.

(a) * * *

TABLE 1—Channelization for Trunked Systems

Block No.	Channel No.	Mobile frequency/base frequency (MHz)
	* * *	* *
8	28–68–108–148–188 ...	820.3125/865.3125 819.3125/864.3125 818.3125/863.3125 817.3125/862.3125 816.3125/861.3125
	* * *	* *

Table 2—Chicago Plan.[2] [3]

* * * * *

[3] Stations located beyond the 70 mile distance authorized on or before August 16, 1982 to use these frequencies may continue to do so. Stations beyond the 70 mile distance authorized after August 16, 1982 shall employ frequencies listed in Table 1 subject to the provisions of § 90.621 (b) or (c) as applicable.

* * * * *

(b) Stations authorized by the Commission to operate in the 816–821 and 861–866 MHz band will be afforded protection solely on the basis of the mileage separation criteria set out below. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

* * * * *

6. § 90.364(b)(2) is revised to read:

§ 90.364 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

* * * * *

(b) * * *

(2) That the licensee's existing trunked system(s) authorized on or before October 16, 1982 is loaded to 80% of its authorized capacity or 80 mobile units if authorized after October 16, 1982.

7. § 90.366 (a), (c), (d), (e), (f), (g) introductory text, (g)(1)(i), and (h) are revised to read:

§ 90.366 Trunked system loading requirements.

(a) Loading requirements for trunked systems authorized on or before October 16, 1982 are shown in Table 1. Trunked systems authorized after October 16, 1982, will be authorized on the basis of a minimum loading criterion of 100 mobile units per channel.

TABLE 1.—Loading Requirements for Trunked Systems

Service group [1]	Mobile radio units [2]		
	5-channel systems	10-channel systems	20-channel systems
Police and fire group	300	750	1,500
Business radio group [3]	500	1,000	2,000
Motor carrier group (urban and interurban passenger motor carriers only)	800	1,600	2,500
Other services group [3]	400	800	1,600
Mixed service group	500	1,000	2,000

[1] No provision is made for use of trunked systems by persons eligible in the taxicab radio service, since this mode of communication is not compatible with normal transmissions requirements of taxicab companies.

[2] For loading trunked systems of communication, mobile radio units shall include vehicular and portable mobile units and control stations.

[3] When the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

* * * * *

(c) If no more frequencies are available for assignment in the system's geographic area, a licensee may apply for admission to the waiting list when the system reaches 70% of its specified capacity.

(d) Licensees of trunked facilities must complete construction within one year of initial grant; Provided, however, that a licensee of a trunked facility assigned more than the minimum five-channel group and authorized prior to August 1, 1982, may elect to construct the facility in stages. In this event, the licensee shall complete construction of the basic five-channel group of the authorized facility within one year. At the end of two years the licensee must demonstrate, notwithstanding the provisions of subparagraph (b), that the basic five channel group is loaded to 70 percent with mobile stations which operate over the entire complement of authorized channels. Construction of the next stage cannot begin until the licensee demonstrates a minimum of 70 percent of the loading required for the first stage. If at the end of two years a licensee who elected to construct in stages has not loaded the first five-channel group to 70 percent, and all trunked channels are assigned in the system's geographic area, authorization for channels in excess of five cancels automatically. If at the end of five years the 5-channel system is not loaded to 70 percent of the prescribed level for this period of time and all trunked channels

are assigned in the system's geographic area, authorization for channels not loaded to 100 mobile stations cancels automatically. All licenses are subject to this condition. A licensee may only modify the election to build or not build a system in stages within the first year of authorization. If the election is changed there will be no extensions of time to complete construction.

(e) If at the end of a license term, a trunked system is not loaded to 70% and all frequencies are assigned in the system's geographic area, authorization for channels not loaded to 100 mobile stations cancels automatically. All licenses are subject to this condition.

(f) If a station is not placed in permanent operation within one year, except as provided in § 90.629, its license cancels automatically and must be returned to the Commission.

(g) For applications in the Public Safety, Land Transportation and Industrial Services (except for the Radiolocation Service), a period of up to three (3) years may be authorized for placing a station in operation in accordance with the following:

(1) * * *

(i) The proposed system will serve a large fleet (i.e., 200 or more mobile units) and will involve a multi-year cycle for its planning, approval, funding, purchase and construction; or,

* * * * *

(h) Wide area systems may be authorized to persons eligible for licensing under Subparts B, C, D, or E of this part upon an appropriate showing of need. Remote or satellite stations of wide area systems in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Special Emergency, Telephone Maintenance and Power Radio Services will be authorized on a primary basis if such stations are the first to be authorized in their area of operation on the frequency or group of frequencies. Remote or satellite stations of wide area systems in all other services will be authorized only on a secondary, non-interference basis to co-channel licensees. To determine system loading, the total number of mobile units and control stations operating in the wide-area system shall be counted with respect to the total number of base station frequencies assigned to the system.

* * * * *

8. § 90.376 (a) introductory text and (a)(1) are revised to read:

§ 90.376 Restrictions on operational-fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 816–821 and 851–866 bands. This does not preclude secondary fixed tone signalling and alarm operations authorized in § 90.235.

(1) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference shall not be caused to stations of licensees authorized to use the frequency for mobile service communications.

* * * * *

9. § 90.492 is revised to read:

§ 90.492 One-way paging operations in the 806–821 and 851–866 MHz bands.

Paging operations are permitted in the 806–821 and 851–866 MHz bands only in accordance with §§ 90.378 and 90.645 (e) and (h)

10. § 90.605 is revised to read:

§ 90.605 Forms to be used.

Applications for conventional and trunked radio facilities shall be submitted on FCC Forms 574 and 574–A and such applications shall be filed with the Federal Communications Commission, Gettysburg, PA. 17325.

11. § 90.611 (c) is revised to read:

§ 90.611 Processing of applications.

* * * * *

(c) Each application will then be reviewed to determine whether it can be granted. Frequencies must be specified by applicants in the Public Safety/Special Emergency, Industrial/Land Transportation and Business categories, and by SMRS applicants for conventional channels pursuant to the provisions of § 90.621. SMRS applicants for trunked frequencies may select their frequencies pursuant to § 90.621 or request the Commission to select frequencies.

* * * * *

§ 90.613 [Amended]

12. In § 90.613, Table of Channel Designations, change channel 355 from 814.7825 MHz to 814.8625 MHz.

13. § 90.615 is amended by revising the heading to read as follows:

§ 90.615 Frequencies available for conventional systems in the 806–809.750/851–854.750 MHz bands.

* * * * *

14. § 90.619 (a) introductory text, Table 1 of (a)(1), and (b)(6) are revised to read as follows:

§ 90.619 Frequencies available for use in the U.S./Mexico and U.S/Canada border areas.

(a) U.S./Mexico border area. The channels listed in Tables 1–4 are offset 12.5 kHz lower in frequency than those specified in § 90.613. The Channel 201 mobile frequency will be 811.000 MHz, followed by Channel 202 at 811.025 MHz and proceeding with uniform 25 kHz channeling to Channel 400 at 815.975 MHz. Base station frequencies will be 45 MHz higher in frequency. These channels are available for assignment for conventional or trunked systems only in areas 68.4 miles (110 km) or less from the U.S./Mexico border. Stations located on Mt. Lemmon, serving the Tucson, AZ area, shall only be authorized offset frequencies.

(1) * * *

TABLE 1—U.S./MEXICO BORDER AREA—PUBLIC SAFETY CATEGORY—55 Channels

Offset group No.	Offset channel Nos.
201[1]	241-281-321-361
202	202-242-282-322-362
203	203-243-283-323-362
204	204-244-284-324-364
205	205-245-285-325-365
206	206-246-286-326-366
207	207-247-287-327-367
208	208-248-288-328-368
209	209-249-289-329-369
210	210-250-290-330-370
211	211-251-291-331-371

[1] Offset group 201 is available for conventional system use only. Offset channel 201 is not available for use in the U.S./Mexico border area.

* * * * *

(b) * * *

(6) Two Canadian television stations provide service in British Columbia in the band 806–890 MHz in accordance with the U.S./Canadian Television Agreement of 1952. They are:

Enderby, B.C.	Channel 72	818–824 MHz
Radium/Hot Springs, B.C.	Channel 77	848–854 MHz

* * * * *

15. § 90.621 (a) introductory text, (a)(1)(i) and (iv) are revised to read:

§ 90.621 Selection and assignment of frequencies.

(a) Applicants eligible in the Public Safety/Special Emergency, Industrial/Land Transportation and Business Categories, and applicants eligible in the SMRS Category requesting conventional frequencies, must specify the frequencies on which the proposed system will operate pursuant to a field study or a recommendation by the appropriate frequency coordinating entity. SMRS applicants requesting trunked frequencies may specify on the basis of a field study the frequencies

desired or may request the Commission to select and assign frequencies for the system.

(1) * * *

(i) All mobile, control, and base station frequencies must be chosen from those listed in §§ 90.613, 90.617 and 90.619.

* * * * *

(iv) The maximum number of frequencies which will be assigned to an SMRS applicant at any one time is five (5) frequency pairs.

* * * * *

16. § 90.623 is amended by revising paragraphs (b) and (c)(2) and adding paragraph (d) to read:

§ 90.623 Limitation on the number of frequencies assignable for conventional systems.

* * * * *

(b) Where an applicant proposes to operate a conventional radio system to provide facilities for the use of a single person or entity eligible under Subparts B, C, D, or E of this part, the applicant may be assigned only the number of frequency pairs justified on the basis of the requirements of the proposed single user of the system.

(c) * * *

(2) The licensee's existing frequency pair(s) is loaded to prescribed levels.

* * * * *

(d) No licensee will be authorized frequencies for a conventional system if that licensee is operating an unloaded trunked system or has an application pending for a trunked system to serve multiple subscribers within 40 miles of the requested conventional system.

17. § 90.627 (a) and (b)(2) are revised to read:

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.

(a) The maximum number of frequency pairs that may be assigned at any one time for the operation of a trunked radio system is twenty. There is no minimum number of frequency pairs that may be assigned for the operation of a trunked radio system. The maximum number of frequency pairs that may be assigned at any one time for the operation of an SMR trunked system is five. There is no minimum number of frequencies that may be assigned for the operation of an SMR trunked system.

(b) * * *

(2) That the licensee's existing trunked system is loaded to at least 80% of its authorized capacity.

18. In § 90.629, the introductory text to the section and paragraph (b) are revised, and a new paragraph (c) is added to read as follows:

§ 90.629 Extended implementation schedules.

For applicants in the Public Safety/Special Emergency, Industrial/Land Transportation and Business Categories requesting either trunked or conventional frequencies, a period of up to three (3) years may be authorized for placing a station in operation in accordance with the following:

* * * * *

(b) Authorizations under this Section are conditioned upon the licensee's compliance with the implementation schedule. If the licensee fails to meet the schedule, and all channels are assigned in the system's geographic area, authorization for trunked channels not loaded to 100 mobile stations cancels automatically. Conventional channels not loaded to 70 mobile units may be subject to shared use by the addition of other licensees. The licensee must submit a report to the Commission's Private Radio Bureau, Gettysburg, PA 17325 annually, showing the extent to which the authorized system has been implemented. A copy of the report must be submitted to the licensee's frequency advisory committee.

(c) Applicants eligible in the Industrial/Land Transportation Category requesting authorizations under this Section may request frequencies in the Business Category only if the application contains a statement that no frequencies in the Industrial/Land Transportation Category are available for assignment in their geographic area.

19. § 90.631 (a), (d), and (e) are revised to read:

§ 90.631 Trunked system loading requirements.

(a) Trunked systems will be authorized on the basis of a minimum loading criterion of 100 mobile stations per channel.

* * * * *

(d) If a station is not placed in permanent operation within one year, except as provided in § 90.629, its license cancels automatically and must be returned to the Commission.

(e) Wide area systems may be authorized to persons eligible for licensing under Subparts B, C, D, or E of this part upon an appropriate showing of need. Remote or satellite stations of wide area systems in the Police, Fire, Local Government, Highway Maintenance, Forestry-Conservation, Special Emergency, Telephone Maintenance and Power Radio Services may be authorized on a primary basis if such stations are the first to be authorized in their area of operation on the frequency or group of frequencies. Remote or satellite stations of wide area systems in all other services will be authorized only on a secondary, non-interference basis to cochannel licensees. To determine system loading, the total number of mobile units and control stations operating in the wide-area system shall be counted with respect to the total number of base station frequencies assigned to the system.

* * * * *

20. § 90.633(e) is revised to read:

§ 90.633 Conventional systems loading requirements:

* * * * *

(e) A licensee may apply for additional frequency pairs if its authorized conventional channel(s) is occupied to 70 mobiles. Applications may be considered for additional channels in areas where spectrum is still available and not applied for, even if the already authorized channel(s) is not loaded to 70 mobile units, upon an appropriate demonstration of need.

* * * * *

21. § 90.637 (a) introductory text and (a)(1) are revised to read:

§ 90.637 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 816–821 and 861–866 MHz bands. This does not preclude secondary fixed tone signalling and alarm operations authorized in § 90.235.

(1) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference shall not be caused to stations of licensees authorized to use the frequency for mobile service communication.

* * * * *

22. In § 90.645 paragraph (g) is revised and paragraph (h) is added to read:

§ 90.645 Permissible operations.

* * * * *

(g) Up to five (5) contiguous channels as listed in §§ 90.615, 90.617, and 90.619 may be authorized after justification for systems requiring more than the normal single channel bandwidth. If necessary, licensees may trade channels amongst themselves in order to obtain contiguous frequencies. Notification of such proposed exchanges shall be made to the appropriate frequency coordinator(s) and to the Commission for approval.

(h) Paging operations may be utilized on multiple licensed facilities (community repeaters) only when all licensees of the facility agree to such use.

[FR Doc. 83-30131 Filed 11-14-83; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 221
Tuesday, November 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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20357; File No. S7-1000]

Applicability of Broker-Dealer Registration to Banks

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is soliciting public comment on a proposed rule that would specify bank securities activities that must be performed through broker-dealers registered under the Securities Exchange Act of 1934 (the "Act"). This action is prompted by investor protection and other regulatory concerns raised by the recent expansion of bank securities activities. The activities that would be required to be performed through a registered broker-dealer are: (i) The public solicitation of brokerage business; (ii) receipt of transaction-related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank provides advice; or (iii) dealing in or underwriting securities other than exempted or municipal securities. Banks engaging in those activities would be required to register under the Act. However, if such activities were conducted by a subsidiary or affiliate of a bank, the bank itself would not need to register as a broker-dealer. The Commission is seeking views from members of the public and the bank regulatory agencies about the proposal and its implementation, including how long the transition period should be before a rule becomes effective. The Commission plans to consult closely with the bank regulators about how to best to implement the proposal.

DATE: Comments should be submitted on or before December 30, 1983.

ADDRESSES: Interested persons should submit three copies of their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7-1000. All submissions will be available for public inspection at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Colleen Curran Harvey, Office of Chief Counsel, Division of Market Regulation, (202) 272-2417, or Karen Buck Burgess, Office of Chief Counsel, Division of Market Regulation, (202) 272-2848.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is soliciting comment on proposed Rule 3b-9 which provides that, for purposes of the "broker" and "dealer" definitions in Sections 3(a) (4) and (5) of the Act, the term "bank" does not include a bank that engages in certain securities activities.[1] Sections 3(a) (4) and (5) provide that the terms "broker" and "dealer" do not include a "bank." Under the proposed rule, a bank could not rely on this exclusion from the definitions of "broker" and "dealer" when it (i) publicly solicits brokerage business, (ii) receives transaction-related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank provides advice, or (iii) deals in or underwrites (on either a firm commitment or best efforts basis) securities other than exempted or municipal securities.[2] The Commission is proposing Rule 3b-9 in order to assure adequate investor protection, reasonably complete and effective regulation of the securities markets, and the maintenance of fair and orderly markets. The proposed rule would require that the activities listed above be performed through a broker-dealer registered with the Commission and subject to the same rules and regulations as all others who engage in such activities.

The Commission is not seeking to regulate the non-securities activities of banks. It is concerned only with the regulation of certain bank securities activities. While the Commission is not proposing to prescribe any particular structure, it believes the use by banks of separate securities affiliates or subsidiaries would minimize the impact on banks of broker-dealer registration pursuant to proposed Rule 3b-9. The separate affiliate or subsidiary rather than the bank could register as a broker-dealer.[3]

Proposed Rule 3b-9 is consistent with regulation by functional activities, rather than by industry classifications, as supported by Commission comments on legislation.[4] The Commission continues to support Congressional review of the financial regulatory system. However, pending Congressional action, the Commission remains responsible for administering the existing securities laws in a manner that will assure investor protection, reasonably complete and effective regulation of the securities markets, and the maintenance of fair and orderly markets.

In this regard, Section 15(a) of the Act requires all broker-dealers to register with the Commission unless an exemption is available. The terms "broker" and "dealer" are defined[5] to exclude a "bank" as defined in Section 3(a)(6).[6] However, all the Act's

---

[1] This release does not express any views on the legality of particular bank securities activities under the Glass-Steagall Act or other banking laws. *See, e.g.*, 12 U.S.C. 24, 78, 377, and 378.

[2] Banks that deal in muncipal securities are already subject to registration under Section 15B(a) of the Act. Proposed Rule 3b-9 does not affect the regulatory scheme applicable to bank municipal securities dealers. Section 15(a) of the Act, of course, exempts from the broker-dealer registration requirement any broker-dealer that effects transactions only in exempted securities. Proposed Rule 3b-9 would not alter that exemption.

[3] Pursuant to existing staff no-action positions, a bank also may not be required to register a separate broker-dealer if it enters into a so-called "networking" arrangement with a registered broker-dealer under which the broker-dealer contracts to perform securities activities in a segregated area of the bank in a manner fully subject to the securities laws, provided that adequate measures are taken to make clear that the broker-dealer and not the bank is offering the service and that the Commission and self-regulatory organizations are permitted to inspect the area where the services are offered. *Cf.*, Letter dated July 8, 1982, from Jeffrey L. Steele, Associate Director, Division of Market Regulation, to Savings Association Investment Securities, Inc. (now known as INVEST, a service of ISFA Corporation).

[4] *Securities Activities of Depository Institutions: Hearings on S. 1720 Before the Subcomm. on Securities of the Senate Comm. on Banking, Housing, and Urban Affairs*, 97th Cong., 2d Sess. 25 (1982) (Statement of John S.R. Shad, Chairman, Securities and Exchange Commission).

[5] *See* Sections 3(a)(4) and (5) of the Act.

[6] Section 3(a)(6) of the Act reads as follows:

The term "bank" means (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C)

Continued

definitions are preceded by the phrase "unless the context otherwise requires."[7] In addition, under Section 3(b) of the Act, the Commission has authority to define terms.[8] Proposed Rule 3b–9 defines activities that the Commission believes to be outside the bank exclusion.

Bank brokerage activities and related promotional practices have recently changed significantly from the accommodation functions contemplated by the Congress when it enacted the bank exclusion. Current bank securities activities also differ significantly from those reviewed by the Commission in its 1977 study of bank securities activities.[9] Today, so-called "discount brokerage" is aggressively promoted by many banks. In exchange for promotional and order-handling services, the banks receive a portion of the customer's commission paid to the entity that executes the securites transactions. These activities and transaction-related fees substantially change the nature of the brokerage services offered by banks.[10] Rather than merely providing accommodation services to existing customers, services are provided that are functionally indistinguishable from those offered by registered broker-dealers.

One of the Act's purposes is to provide reasonably complete and effective regulation of the securities markets.[11] The Commission believes that, in enacting the bank exclusion, the Congress did not contemplate that banks would publicly solicit brokerage business, receive transaction-related compensation for providing brokerage services for trust, managing agency or other accounts to which the bank provides advice, or deal in or underwrite (on either a best efforts or firm commitment basis) securities other than exempted securities or municipal securities. There is no persuasive evidence that Congress intended to permit banks to engage in those types of securities activities without being subject to the broker-dealer regulatory requirements imposed on others who engage in such activities.[12] The promotional and other activities covered by proposed Rule 3b–9 far transcend the limited bank securities role that was the basis of Congressional action in 1934. Proposed Rule 3b–9 rests on the premise that banks choosing to engage in securities activities of the type described in the proposed rules do not fall within the exclusion from the definitions of "broker" and "dealer" and must conduct those activities pursuant to broker-dealer regulatory requirements.[13]

The Commission is soliciting comment on the appropriate scope of proposed Rule 3b–9 from the Federal bank regulators, with which the Commission expects to consult closely, and general public commentators. It solicits comment on whether activities should be added or deleted from the list of activities covered by the rule. It seeks comment on whether to exclude from the rule banks that engage only in small numbers of transactions or that limit their activities to referral of bank customers to registered broker-dealers.[14] The Commission also solicits comment on whether banks engaging in limited securities activities should be subject to registration but exempted from certain of the requirements applicable to broker-dealers. In addition, the Commission seeks comment on how long a transition period it should provide before making a rule effective.

The first activity described in the proposed rule is the public solicitation of brokerage business.[15] Under the public solicitation standard, a bank that promotes the availability of internalized brokerage services to non-bank customers would be subject to broker-dealer registration. Banks would continue to be able to perform order-handling activities as an accommodation for their existing bank customers without registering as broker-dealers, but would not be permitted to make general solicitations of those services. The Commission solicits comment on the appropriate scope of public solicitation, including the extent to which banks should be permitted to market accommodation services to their customers.

The second activity described in the proposed rule is the receipt of transaction-related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank provides advice.[16] The

---

any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising a fiduciary power similar to those permitted to national banks under section 11[k] of the Federal Reserve Act, as amended, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, a conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

[7] *See generally, Marine Bank v. Weaver*, 102 S.Ct. 1220 (1982).

[8] Section 3(b) of the Act, in relevant part, provides:

The Commission . . . shall have the power by rules and regulations to define technical, trade, accounting, and other terms used in this [Act], consitently with the provisions and purposes of this [Act].

[9] Securities and Exchange Commission, *Reports on Banks Securities Activities* (1977) (the "Bank Study"). The Bank Study noted that the brokerage activities of banks differed from the activities of broker-dealers in several important respects, such as the informal nature of the services rendered, the general absence of advertisting for customer transaction services, and the general absence of commissions based on the size of transactions.

[10] *Cf. Investment Company Institute v. Camp*, 401 U.S. 617 (1971), in which the Supreme Court held that the union of three activites: providing investment advice by acting as managing agent, pooling investments, and buying and selling securities for customers, each of which was separately permissible, gave birth to something "of a different character."

[11] Section 2 of the Act.

[12] Although the legislative history of the bank exclusion in the Act is not extensive, the hearings on the predecessor bills of the Act contain references to the limited nature of bank securities activities permitted at that time. *See* Congressional testimony of Thomas G. Corcoran, a principal drafter of the Act, regarding the limited nature of bank securities activities. *Hearings on H.R. 7852 and H.R. 8720 Before the House Committee on Interstate and Foreign Commerce*, 73d Cong., 2d Sess. 85–86, 686–687 (1934) and *Hearings on Stock Exchange Practices before the Senate Committee on Banking and Currency*, Pts. 15–17, 73d Cong., 1st Sess. 6470–6471 (1934).

[13] In *Marine Bank v. Weaver*, 102 S.Ct. 1220 (1982), the Supreme Court decided that the introductory langauge in Section 3(a) of the Act (*i.e.*, "unless the context otherwise requires") mandates an analysis of the context of a securities transaction in order to determine whether a certificate of deposit falls within the definition of a "security" under the antifraud provisions of the federal securities laws. A similar approach was used by Justice Brennan in analyzing the exclusion for insurance in the federal securities laws in his concurring opinion in *Securities and Exchange Commission v. Variable Annuity Life Insurance Company of America*, 359 U.S. 65 (1959). Justice Brennan concluded that the scope of exclusions in the federal securities laws must be examined in view of the regulatory purposes of the federal securities laws.

[14] Staff no-action letters have generally concluded that persons that receive transaction-related compensation are required to register as broker-dealers, even if their activities are limited to referrals to registered broker-dealers.

[15] The Commission expresses no opinion as to the legality, under the banking laws, of such activities. *See Securities Industry Association v. Board of Governors of the Federal Reserve System*, No. 83–4019 (2d Cir. July 15, 1983), *petition for cert. filed*, (Oct. 13, 1983).

[16] The Commission understands that banks do not provide investment advice in connection with accommodation services. If a bank did provide investment advice in connection with accommodation services and received transaction-related compensation, the bank would be required to register as a broker-dealer. The Commission expresses no opinion as to the legality, under the banking laws, of such an arrangement. *Compare Investment Company Institute v. Camp*, 401 U.S. 617 (1971) with *Decision of the Comptroller of the Currency Concerning an Application by American National Bank of Austin, Texas To Establish an Operating Subsidiary To Provide Investment Advice* (Sept. 2, 1983).

Commission solicits comment on the appropriateness of that provision of the rule.

The final activity described, on which the Commission also seeks comment, is underwriting or dealing in securities other than exempted or municipal securities.[17]

The proposed rule is consistent with past Commission statements. In 1974, the Commission stated that the statutory definitions of broker, dealer and bank were not to be construed in an inflexible or rigid manner. Rather, the definitions may be "modified, altered or even inapplicable if the context otherwise requires."[18] In the 1977 Bank Study, the Commission examined the bank securities activities that had evolved from 1934 to 1977 to determine whether any legislative change was needed. The Commission did not recommend such action at that time, but it cautioned that this conclusion might be affected by the expansion of bank securities activities.[19] The Commission now believes that, consistent with the purposes of the Act, banks engaging in the expanded securities activities described in proposed Rule 3b–9 should be required to do so in compliance with the broker-dealer regulatory requirements.

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. § 603 regarding proposed Rule 3b–9. The Analysis notes that the objective of requiring a bank that engages in certain securities activities to do so through a registered broker-dealer is to effect the purposes of the Act, including the protection of investors and the maintenance of reasonably complete and effective regulation of the securities markets. The Analysis states that the proposed rule would require compliance with the regulatory requirements imposed on registered broker-dealers, including financial responsibility, recordkeeping and reporting rules. The Analysis notes that the Commission is specifically seeking comment on whether there should be any exemptions from any of these compliance requirements or from the proposed rule itself.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Colleen Curran Harvey, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 272–2417).

List of Subjects in 17 CFR Part 240

Bank, Reporting and recordkeeping requirements, Securities.

Statutory Basis

Proposed Rule 3b–9 would be adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 2, 3, 15 and 23(a) [15 U.S.C. 78b, 78c, 78*o* and 78w(a)].

Text of the Proposed Amendment

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 240.3b–9 as follows.

§ 240.3b–9 Definition of "bank" for purposes of Sections 3(a) (4) and (5) of the Act.

The term "bank" as used in the definitions of "broker" and "dealer" in Sections 3(a) (4) and (5) of the Act does not include a bank that does any of the following:

(a) Publicly solicits brokerage business;

(b) Receives transaction-related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank provides advice; or

(c) Deals in or underwrites securites other than exempted or municipal securities.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30694 Filed-11-14-83; 8:45 m]

BILLING CODE 8010-01-M

[17] The Commission expresses no opinion as to the legality, under the banking laws, of such underwriting or dealing. *Cf. A. G. Becker v. Board of Governors of the Federal Reserve System*, 519 F. Supp. 602 (D.D.C. 1981), *rev'd*, 693 F. 2d 136 (D.C. Cir.), *aff'd mem.*, 694 F. 2d 280 (D.C. Cir. 1982) (*en banc*), *cert. granted sub. nom. Securities Industry Association v. Board of Governors*, No. 82–1766, U.S.L.W. (U.S. Oct. 3, 1983). As indicated in n. 2 *supra*, bank municipal securities dealers are already subject to registration under Section 15B(a) of the Act. Proposed Rule 3b–9 is not intended to alter the regulatory scheme for bank municipal securities dealers.

[18] *See* Securities Act Release No. 5491 (April 30, 1974), in which the Commission announced an inquiry into bank-sponsored investment services.

[19] "The Commission will continue to devote attention to the development of these bank securities activities, since evolution or expansion of current bank practices, as well as changes in the securities markets and the emergence of a national market system, may affect the conclusions expressed herein." *Final Report on Banks Securities Activities*, Securities and Exchange Commission, at 43, 1977.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 161

[Docket No. 83N–0357]

Quick-Frozen Fillets of Cod and Haddock; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is offering to interested persons an opportunity to review the "Recommended International Standard for Quick-Frozen Fillets of Cod and Haddock" (Codex Standard No. CAC/RS 50–1971) and to comment on the desirability of and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Food and Agriculture Organization/World Health Organization's Codex Alimentarius Commission. If the comments received do not support the need for a U.S. standard for this food, FDA will not propose a standard.

DATE: Comments by January 15, 1984.

ADDRESS: Written comments, data, or other information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–245–1155.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. Under the FAO/WHO program, a large number of food standards have been developed and submitted to governments for acceptance, including a Codex standard for quick-frozen fillets of cod and haddock.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance,

target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country which concludes that it will accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act (the act) applies, it is necessary either to establish a U.S. standard under authority of section 401 of the act (21 U.S.C. 341), or to revise an existing standard to incorporate the provisions within the U.S. standard. At present, there are no U.S. standards for quick-frozen fillets of cod and haddock.

Under the procedure prescribed in 21 CFR 130.6(b)(3), FDA is providing an opportunity for review and informal comment on: (1) The desirability of and need for a U.S. standard for quick-frozen fillets of cod and haddock; (2) the specific provisions of the Codex standard; (3) additional or different requirements that should be in the U.S. standard, if established; and (4) any other pertinent points.

FDA advises that if the comments received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, the Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Because of the large number of countries, often with diverse food regulations, that are associated with the development of Codex standards, certain provisions of the Codex standards may not be consistent with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, certain basic labeling requirements, such as declaration of the net quantity of contents, name of manufacturer, and country of origin, and other factors. These factors are not considered a part of U.S. food standards under section 401 of the act; rather, they are dealt with under the authority of other sections of the act.

The Codex standard for quick-frozen fillets of cod and haddock specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, FDA's policy is to employ the methods in the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under § 130.6(c) all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

List of Subjects in 21 CFR Part 161

Fish, Food standards, Seafood.

The Codex standard under consideration is as follows:

Recommended International Standard for Quick-Frozen Fillets of Cod and Haddock

1. *Scope.* This standard shall apply to quick-frozen fillets of fish of the species as defined below and offered for direct consumption without further processing. It does not apply to the product indicated as intended for further processing or for other industrial purposes.

2. *Description.*

2.1 *Product Definition.* (a) Quick-Frozed Fillets of Cod and Haddock are obtained from fish of the following species:

Cod: Gadus morhua L. (synonym *Gadus callarias L.) Gadus ogac*, and *Gadus macrocephalus*

Haddock: Melanogrammus aeglefinus

(b) Fillets are slices of fish of irregular size and shape which are removed from the carcass by cuts made parallel to the backbone and sections of such fillets cut so as to facilitate packing.

2.2 *Process Definition.* The product shall be subjected to a freezing process and shall comply with the conditions laid down hereafter. The freezing process shall be carried out in appropriate equipment in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached –18°C (0°F) at the thermal centre after thermal stabilization. The product shall be maintained at a low temperature such as will maintain the quality during transportation, storage and distribution up to and including the time of final sale.

The recognized practice of repacking quick-frozen products under controlled conditions followed by the reapplication of the quick freezing process as defined is permitted.

2.3 *Presentation.* Fillets shall be presented as:

(a) Skin-on, unscaled;

(b) Skin-on, Scaled (scaled removed); or

(c) Skinless.

The fillets may be presented as boneless, provided that boning has been completed including the removal of pin bones.

3. *Essential Composition and Quality Factors.*

3.1 *Raw Material.* Quick-frozen Fillets of Cod and Haddock shall be prepared from sound fish of the designated species which are of a quality such as to be fit to be sold fresh for human consumption.

3.2 *Final Product.*

3.2.1 The fillets shall be free from foreign matter and all internal organs and shall be reasonably free from ragged edges, tears and flaps, fins, significantly discoloured flesh, blood clots, black membrane (belly wall), nematodes and where appropriate skin, scales and bones.

3.2.2 After cooking by steaming, baking or boiling as set out in subsections 7.1.2.1 to 7.1.2.3, the product shall have a flovour characterstic of the species and shall be free from any objectionable flavour and odour, and its texture shall be firm and not tough, soft or gelatinous.

3.2.3 The final product shall be reasonably free from undesirably small fillet pieces. A piece weighing less than 30 g is classed undesirably small. The maximum number of small fillet pieces permitted is one per pack weighing less than 250 g and no more than 4 per kg in packs of 250 g or more, except as provided for in subsection 6.1.1.

3.2.4 The final product shall be free from dehydration (freezerburn) which cannot easily be removed by scraping.

Note.—A recommended table of physical defects for optional use with consignments of the final product with an AQL of 6.5 is appended as Annex A.

4. *Food Additives.*

	Maximum level of use
Monophosphate, monosodium or monopotassium (Na or K orthophosphate) Diphosphate, tetrasodium or tetrapotassium (Na of K pyrophosphate) Triphosphate, pentasodium or pentapotassium or calcium (Na, K or Ca tripolyphosphates)	0.5% m/m of the final product expressed as P_2O_5, singly or in combination.
Polyphosphate, sodium (Na hexametaphosphate)	
Ascorbate, potassium or sodium	0.1% m/m of the final product, expressed as ascorbic acid.

5. *Hygiene.* It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimintarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labelling.* In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The Name of the Food.*

6.1.1 The name of the product as declared on the label shall be "cod fillets" or "fillets of cod"; "haddock fillets" or "fillets of haddock", as appropriate. The words "quick-frozen" shall also appear on the label except that the term "frozen" [1] may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2 of the standard. Packs of fillets cut from blocks which may contain a number of small pieces in excess of the number permitted by subsection 3.2.3 may be labelled as fillets of cod or haddock provided that such labelling is customarily used in the country where the product is to be sold and provided that the product is identified to the consumer so that he will not be misled.

6.1.2 The label may, in addition, include reference to the presentation as skin-on or skinless and/or boneless, as appropriate. This shall be included if the omission of such labelling would mislead the consumer.

6.2. *List of Ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion. The provisions of subsection 3.2(b) and 3.2(c) of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1–1969) shall also apply.

6.3 *Net Contents.*

6.3.1 The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.3.2 Where products have been glazed the declaration of the net contents of the product shall be exclusive of the glaze.

6.4 *Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

6.5 *Country of Origin*

6.5.1 The country of origin of the food shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the food undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

6.6 *Lot Identification.* There may be an indication in code or in clear of the date of production, that is, the date the final product was packaged for final sale.

7. *Methods of Analysis, Sampling and Examination.* The methods of analysis, sampling and examination described hereunder are international referee methods.

7.1 *Thawing and Cooking Procedures.* CAC/RM 40–1971 (To be used prior to examination, as appropriate)

7.1.1 Thawing Procedure. The sample is thawed by enclosing it in a film type bag and immersing in an agitated water bath held at approximately 20°C (68°F). The complete thawing of the product is determined by gently squeezing the bag occasionally so as not to damage the texture of the fish, until no hard or ice crystals are felt.

7.1.2 Cooking Procedures.

7.1.2.1 Steaming. Steam the sample in a closed dish of 18 cm (7 inches) diameter over boiling water for 35 minutes if frozen, or for 18 minutes after thawing the product.

The dish should be covered and should be kept in a water bath at 60°C (140°F) during testing.

7.1.2.2 Baking. A baking pan, approximately 30×20×6 cm (12"×8"×2½") is lined with aluminium foil. The sample is placed in the pan and a cover is made by crimping an additional sheet of aluminium foil around the edges of the top of the pan. The pan is placed in an oven that has been preheated to 230°C (450°F), for 20 minutes or until cooking has been completed.

7.1.2.3 Boiling in Bag. Place the thawed sample into a boilable film-type pouch and seal. Immerse the pouch and its contents into boiling water and cook until the internal temperature of the fillet sample reaches 70°C (160°F), which requires about 20 minutes

7.2 *Determination of Net Contents of Products covered by Glaze.* CAC/RM 41–1971. As soon as a package is removed from low temperature storage open immediately and place the content under a gentle spray of cold water. Agitate carefully so that the product is not broken. Spray until all ice glaze that can be seen or felt is removed. Transfer the product to a circular No. 8 [2] sieve 20 cm (8 inches) in diameter for samples weighing less than 900 g (2 pounds) and 30 cm (12 inches) for those more than 900 g (2 pounds). Without shifting the product incline sieve at an angle of approximately 17–20° to facilitate drainage, and drain exactly 2 minutes (stop watch). Immediately transfer the product to a tared pan and weigh (Methods of Analysis of AOAC (1965) 18.001).

Annex A—Recommended Defect Table—Cod and Haddock

This table and the maximum allowable number of demerit points are based on an AQL of 6.5. The defect table is not to be applied to individual packs but to consignments in association with a suitable sampling plan.

Demerit points are awarded for *each* defect occurrence as listed below, e.g.

One bone 5mm or less = 2 points

Two bones 5mm or less = 4 points

1. *Bones:*	
(a) *Boneless Fillets:*	
5 mm or less in any dimension	2
Greater than 5 mm up to and including 30 mm in any dimension	4
Greater than 30 mm in any dimension	8
(b) *Fillets not designated as boneless:* Bones other than pin-bones greater than 10 mm in any dimension	4
2. *Discolourations:*	
Each significantly intense discoloration of the flesh over 3 cm^2 up to an including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2
3. *Blood Clots:* Each piece greater than 5 mm in any dimension	4
4. *Nematodes:* Each nematode with capsular diameter greater than 3 mm or each worm not encapsulated greater than 1 cm in length, or each worm which is objectionable by virtue of its dark colour	4
5. *Fins or Part Fin including both internal and external bones, other than the back Fins of butterfly (block) fillets:*	
(a) *Boneless Fillets:*	
Each fin or part fin 3 cm^2 or less	8
Over 3 cm^2, every additional complete 3 cm^2	4
(b) *Fillets not designated as boneless:*	
Each fin or part fin 3 cm^2 or less	4
Over 3 cm^2, every additional complete 3 cm^2	2
6. *Skin (Skinless Fillets):*	
Each piece greater than 3 cm^2 up to and including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2
7. *Black Membrane (Belly Wall):*	
Each piece greater than 5 cm^2 up to and including 10 cm^2	4
Over 10 cm^2, every additional complete 5 cm^2	2

NOTE.—A sample of one kg will be considered defective if the demerit points total more than 20.

[1] "Frozen": This term is used as an alternative to "quick-frozen" in some English speaking countries.

[2] Size of opening 2.38 mm: the nearest corresponding ISO sieve [Ref. ISO Recommendation R 565) is of 2.8 mm×2.8 mm opening.

Interested persons may, on or before January 16, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small business consistent with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

Dated: November 4, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-30700 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-83-1128]

Community Development Block Grants for Indian Tribes and Alaskan Native Villages—Allocation of Funds

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the method for allocating funds to the HUD Field Offices responsible for the Community Development Block Grant (CDBG) Program for Indian Tribes and Alaskan Native Villages. Currently, a formula based entirely upon population is used. The proposed allocation formula would provide a base amount of funds to each Field Office, with the remaining funds to be distributed based on the following: eligible Indian population and extent of poverty, weighted twice; and extent of overcrowded housing, weighted once. This refinement of the allocation formula is made possible through the use of 1980 Census data that were not previously available.

DATE: Comments must be received by January 16, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. Copies of all written comments received will be available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Leroy Gonnella, Office of Program Policy Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone number (202) 755-6092. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The proposed rule would revise the formula for allocating funds to HUD field offices for Indian Tribes and Alaskan Native Villages under section 107 of the Housing and Community Development Act of 1974. This revision is made possible because of the recent availability of 1980 Census data for these grant recipients, and is intended to match better the funds available with the areas of demonstrated need for funding. Recent allocation formulas have relied either on eligible Indian population exclusively or on Indian population and previous Community Development Block Grant funding history, since there were no other accurate data reflecting need.

In deciding what allocation formula would best reflect funding need, the Department considered a variety of measures in various combinations: eligible Indian population, extent of poverty, extent of housing units lacking full plumbing facilities, extent of overcrowded housing, and unemployment. Two of these measures—extent of housing units lacking full plumbing facilities and unemployment—could not be used because the available data were inappropriate and obsolete, respectively. Lack of full plumbing is not in all cases a measure of inadequate housing, since there are places in Alaska where complete plumbing is not feasible. The source for unemployment statistics—the 1980 Census—is no longer timely, and other more recent sources as of this date are incomplete for Indian Tribes and Alaskan Native Villages.

The Department believes that eligible Indian population, extent of poverty, and extent of overcrowded housing best reflect funding need when weighted and used in combination. Population and extent of poverty would each be weighted twice in the formula in order to allocate funds principally to areas with the largest number of low- and moderate-income persons in accordance with the primary program objective. Extent of overcrowded housing is weighted once in the formula.

The formula would allow for a base amount of funding to be provided to each HUD Field Office to ensure that each Office receives sufficient funds to carry out a meaningful competition within the limits of the funds available. The rule also would make clear that funds that are specifically designated for certain purposes would not be subject to the proposed formula allocation. An example would be the funds earmarked for water and sewer activities in the Conference Report (H.R. Report No. 98-264) on the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Pub. L. 98-45). The Secretary would allocate these amounts on the basis of need or demand, using factors deemed appropriate by the Secretary, unless otherwise specified by law.

Definitions of "eligible Indian populations" and "extent of poverty" appear at present in § 571.4. A new definition, "extent of overcrowded housing", would be added at § 571.4(m) with this rulemaking.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal regulations issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2)

cause of major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect 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.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule broadens the formula (by including more factors) used to allocate funds to HUD Field Offices for the CDBG Program for Indian Tribes and Alaskan Native Villages. The new formula would ensure a more equitable distribution of funds among all recipient entities, without having a significant adverse economic impact on a substantial number of small entities.

This rule is listed as CPD–13–83 under the Office of Community Planning and Development in the Department's Semiannual Agenda of Regulations published in the Federal Register of October 17, 1983 (48 FR 47462) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number is 14.223.

List of Subjects in 24 CFR Part 571

Community development block grants, Grant programs—Housing and community development, Grant programs—Indians, Indians.

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

Accordingly, the Department proposes to amend 24 CFR Part 571 as follows:

1. Section 571.4 would be revised by adding a new paragraph (m) to read as follows:

§ 571.4 Definitions.

* * * * *

(m) "Extent of overcrowded housing" means the number of housing units with 1.01 or more persons per room based on data compiled and published by the United States Bureau of the Census available from the latest census referrable to the same point or period in time.

2. Section 571.101 would be revised to read as follows:

§ 571.101 Regional allocation of funds.

(a) Except as provided in paragraph (b) of this section, funds will be allocated to the Field Offices responsible for the program on the following basis:

(1) Each Field Office will be allocated $500,000 as a base amount, to which will be added a formula share of the balance of the Indian CDBG Program funds, as provided in paragraph (a)(2) of this section.

(2) The amount remaining after the base amount is allocated will be allocated to each Field Office as follows:

(i) Forty percent (40%) of the funds will be allocated based upon each Field Office's share of the total eligible Indian population;

(ii) Forty percent (40%) of the funds will be allocated based upon each Field Office's share of the total extent of poverty among the eligible Indian population; and

(iii) Twenty percent (20%) of the funds will be allocated based upon each Field Office's share of the total extent of overcrowded housing among the eligible Indian population.

(b) The allocation formula will apply to Community Development Block Grant funding for Indian Tribes and Alaskan Native Villages that is not designated for a specific activity. The allocation formula will not apply to funds appropriated for specific activities or purposes, such as the funds earmarked for water and sewer activities in the Conference Report (H.R. Report No. 98–264) on the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1984 (Pub. L. 98–45). Earmarked funds will be allocated on the basis of need or demand, using factors determined to be appropriate by the Secretary, unless otherwise specified by law.

(c) Data used for the allocation of funds will be based upon the eligible Indian population of those Tribes and Villages which are determined to be eligible ninety (90) days prior to the beginning of the fiscal year.

(Sec. 107, Housing and Community Development Act of 1974 (42 U.S.C. 5307); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3533(d)))

Dated: November 8, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-30710 Filed 11-14-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–144–76]

Farming Syndicate Expenditures; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to farming syndicate expenditures. Changes to the applicable tax law were made by the Tax Reform Act of 1976, the Revenue Act of 1978, and the Subchapter S Revision Act of 1982. These regulations would provide necessary guidance to the public for compliance with those Acts and would affect passive investors in certain farming enterprises.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 16, 1984. The regulations are proposed to be effective for taxable years beginning after December 31, 1975, except as otherwise provided.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–144–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Howard A. Balikov of the Legislation and Regulations Division, Office of the 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 contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 278 and 464 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 207 (a) and (b) of the Tax Reform Act of 1976 (90 Stat. 1536), section 701 (l) (3) of the Revenue Act of 1978 (92 Stat. 2907), and section 5 (a)((30) of the Subchapter S Revision Act of 1982 (96 Stat. 1695), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Purpose of Statutory Changes

Prior to these statutory changes, the tax laws allowed all persons with interests in farming enterprises to take a

current deduction for a number of expenses that might not generate income until later years. If the enterprise did not earn income until later years, as was often the case, the result of these rules was that a person with high income from non-farm sources could shelter such income with currently deductible expenses of the farming enterprise. Thus, the person could defer taxes on the non-farm income until the later years. Sometimes the income generated by the farming enterprise was in the nature of a capital gain, and thus was taxed at a rate lower than the ordinary income rate that would have applied to the nonfarm income but for the farming enterprise deductions. Congress enacted the changes in the tax law to prevent the generation of such deductions by farming enterprises that typically attract investors seeking deferral tax shelters.

The New Rules

The new rules place limitations on deductions allowed to farming syndicates. Under the new rules, farming syndicates may not deduct costs of feed, seed, fertilizer and other similar farm supplies before the supplies are actually used or consumed. In addition, farming syndicates must capitalize or inventory certain costs of poultry. Farming syndicates also must capitalize costs of planting, cultivating, maintaining and developing certain groves, orchards and vineyards, if the costs are incurred before the grove, orchard or vineyard bears a commercial crop or yield. Code sections 278 (b) and (c), Code sections 464 (a) and (b), and proposed regulations §§ 1.278–2 and 1.464–1 contain details regarding the operation of the new rules.

Farming syndicates subject to the new rules are, in general, enterprises sold by means of registered securities offerings and enterprises with a significant proportion of passive investors. Code section 464(c)(1)(B) defines the term "farming syndicate" to include certain enterprises where "more than 35 percent of the losses during any period are allocable to limited partners or limited enterpreneurs." Proposed regulation § 1.464–2(a)(2) provides rules for applying section 464(c)(1)(B). The Internal Revenue Service invites comments on proposed regulation § 1.464–2(a)(2).

Effective Dates

Generally, the statutory changes and these proposed regulations are effective for expenditures made in taxable years beginning after December 31, 1975. However, proposed regulation §§ 1.278–2(d) and 1.464–1(c) provide transitional rules that make the new rules inapplicable to certain investments already in existence on that date.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the **Federal Register**.

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. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Howard A. Balikov 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, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable Income, Deductions, Exemptions.

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. A new § 1.278–2 is added in the appropriate place to read as follows:

§ 1.278–2 Certain capital expenditures of farming syndicates.

(a) *General rule.* (1) Except as provided in paragraph (c) of this section, farming syndicates (as defined in section 464(c) and the regulations thereunder) engaged in planting, cultivating, maintaining or developing a grove, orchard or vineyard in which fruit or nuts are grown must capitalize any amount which—

(i) Would be allowable as a deduction but for the provisions of section 278(b) and this section,

(ii) Is attributable to the planting, cultivation, maintenance or development of such grove, orchard or vineyard, and

(iii) Is incurred in a taxable year before the first taxable year in which such grove, orchard or vineyard bears a crop or yield in commercial quantities.

For purposes of determining whether amounts are described in paragraph (a)(1)(ii) of this section, the rules of § 1.278–1(a)(2)(iii) shall apply as if such section applied to such grove, orchard or vineyard. Paragraph (a)(1)(iii) of this section is applied without regard to whether an amount is incurred before or after the plants are permanently planted. For purposes of section 278(b) and this section, an amount shall be considered as "incurred" in accordance with the taxpayer's regular tax accounting method used in reporting income and expenses connected with planting, cultivating, maintaining or developing the grove, orchard or vineyard. For purposes of this paragraph (a)(1), any portion of a grove, orchard or vineyard planted in one taxable year shall be treated separately from any other portion of such grove, orchard or vineyard planted in another taxable year, and plants that are more than one year older than other plants shall be treated separately.

(2) For purposes of section 278(b) and this section a grove, orchard, or vineyard in which fruit or nuts are grown includes any group of trees, bushes, shrubs, or vines which produce a crop or yield of fruits or nuts. For purposes of this section, a "fruit" is defined as a fertilized and developed ovary of a plant, including the seeds, or, in the case of a plant that does not bear seeds, the fertile structure of the plant, and a "nut" is defined as a hard-shelled fruit. For example, fruits or nuts include apples, avocados, coffee beans, grapes, jojoba beans or seeds, pecans, pistachios, and walnuts.

(3) For purposes of section 278(b) and this section a tree or vine shall be considered to be "planted" on the date on which the tree or vine is placed in the

permanent grove, orchard or vineyard from which production is expected.

(4) The period during which expenditures described in section 278(b) and paragraph (a)(1) of this section are required to be capitalized shall, once determined, be unaffected by a sale or other disposition of the grove, orchard or vineyard to any other farming syndicate. Such period shall be computed by reference to the taxable years of the owner of the grove, orchard or vineyard at the time the trees or vines were planted. Therefore, if a grove, orchard or vineyard subject to the provisions of section 278(b) and paragraph (a)(1) of this section is sold or otherwise transferred by the original owner of the grove, orchard or vineyard to a purchaser or other transferee that is a farming syndicate before the first taxable year in which such grove, orchard or vineyard bears a crop or yield in commercial quantities, expenditures described in section 278(b) and paragraph (a)(1) of this section made by the purchaser or other transferee before the beginning of the original holder's first taxable year in which such grove, orchard or vineyard bears a crop or yield in commercial quantities are required to be capitalized. For an illustration of a similar rule, see § 1.278–1(a)(3)(ii).

(b) *Relationship of section 278(b) to section 278(a)*—

(1) *In general.* In the case of a farming syndicate engaged in the planting, cultivation, maintenance or development of a citrus or almond grove, the capitalization rules of section 278(a) and § 1.278–1 apply prior to the capitalization rules of section 278(b) and this section.

(2) *Examples.* The provisions of paragraph (b)(1) of this section may be illustrated by the following examples.

Example (1). X, a farming syndicate on the calendar year basis, plants almond saplings in an almond grove in 1983. Throughout 1983 and later years, X incurs expenditures for cultivating and maintaining the almond grove. During 1985, X's almond grove produces almonds in commercial quantities. Pursuant to section 278(a), X must capitalize any cultivation or maintenance costs of the almond grove that are incurred before the close of 1988.

Example (2). Z, a farming syndicate on the calendar year basis, plants an orange grove in 1983. Z's orange grove does not produce commercial quantities of oranges until 1988. Section 278(a) requires Z to capitalize all amounts attributable to planting, cultivating, maintaining or developing the orange grove that are incurred before the close of 1986. Section 278(b), however, requires the capitalization of all amounts attributable to such activities that are incurred before the close of 1987. Accordingly, Z must capitalize all such amounts incurred before the close of 1987.

(c) *Exceptions.* Paragraph (a)(1) of this section shall not apply to amounts allowable as deductions (without regard to section 278(b) or this section) and attributable to a grove, orchard or vineyard (or part thereof) that is replanted by the taxpayer after having been lost or damaged (while in the hands of the taxpayer) by reason of freeze, disease, drought, pests or casualty.

(d) *Effective date*—(1) *In general.* Section 278(b) and this section apply to amounts paid or incurred in taxable years beginning after December 31, 1975.

(2) *Transitional rule.* Section 278(b) and this section do not apply to amounts paid or incurred with respect to a grove, orchard or vineyard which was planted or replanted before January 1, 1976. For this purpose, a tree or vine that was planted before January 1, 1976 at a place other than the grove, orchard or vineyard of the taxpayer, but which was owned by the taxpayer (or with respect to which the taxpayer had a binding contract to purchase) before January 1, 1976, is considered to have been planted on December 31, 1975, in the grove, orchard or vineyard of the taxpayer.

Par. 2. Sections 1.464–1 and 1.462–2 are added in the appropriate place to read as follows:

§ 1.464–1 Limitations on deductions in case of farming syndicates.

(a) *General rule*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, amounts paid by a farming syndicate (as defined in section 464 (c) and § 1.464–2(a)) for feed, seed, fertilizer or other similar farm supplies (as defined in § 1.464–2(c)) shall be deducted only for the taxable year in which actually used or consumed or, if later, for the taxable year for which a deduction for such amounts would be allowed under the taxpayer's method of accounting. In addition, the cost of poultry purchased by a farming syndicate for resale shall not be deducted until the taxable year in which the poultry is sold or otherwise disposed of. The cost of poultry (including egg-laying hens and baby chicks) purchased by a farming syndicate for use in a trade or business (or purchased by a farming syndicate both for use in a trade or business and subsequent resale) is to be capitalized and (taking into account salvage value) deducted ratably on a monthly basis over the lesser of 12 months or their useful life in that trade business.

(2) *Exceptions.* The provisions of section 464(a) and the first sentence of paragraph (a)(1) of this section, relating to amounts paid by a farming syndicate for feed, seed, fertilizer or other farm supplies, shall not apply to either of the following.

(i) Amounts paid for feed, seed, fertilizer, or other farm supplies which are on hand at the close of the taxable year solely because the consumption of such items during the year was prevented by fire, storm, flood or other casualty or because of disease or drought.

(ii) Amounts required to be capitalized under section 278 and the regulations thereunder. For example, in the case of fertilizer expenditures subject to the rules of section 278, no deduction is allowed upon consumption of the fertilizer. Instead, the amount must be charged to capital account.

(b) *Override of accounting methods.* To the extent use of any accounting method (such as the farm-price method of inventory valuation) conflicts with the requirements of section 464 and this section, the requirements of section 464 and this section shall prevail.

(c) *Effective date*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, section 464 and this section apply to amounts paid or incurred in taxable years beginning after December 31, 1975.

(2) *Transitional rule.* In the case of a farming syndicate in existence on December 31, 1975, and for which there was no change of membership throughout its taxable year beginning in 1976, section 464 and this section apply only to amounts paid or incurred in taxable years beginning after December 31, 1976. A change in membership which disqualifies a farming syndicate from this transitional rule includes the addition of a new member and the sale of an existing member's interest, but does not include a substitution occurring by operation of law, by gift, or by the death or withdrawal of an existing member.

§ 1.464–2 Farming syndicates—definitions and special rules.

(a) *Farming syndicate*—(1) *General rule.* The term "farming syndicate" means—

(i) A partnership or any other enterprise (other than a corporation which is not an S corporation (as defined in section 1361(a)(1)) engaged in the trade or business of farming (as defined in section 464(e)(1) and paragraph (b) of this section), if at any time any interest in the partnership or enterprise has been offered for sale in any offering required to be registered with any Federal or State agency having

authority to regulate the offering of securities for sale, or

(ii) A partnership or any other enterprise (other than a corporation which is not an S corporation) engaged in the trade or business of farming, if more than 35 percent of the losses for any taxable year are allocable to limited partners or limited entrepreneurs.

The form of organization that a farming syndicate may take includes, but is not limited to, a general or limited partnership, a sole proprietorship involving an agency relationship created by a management contract, a trust, a common trust fund (as defined in section 584(a)), and an S corporation (as defined in section 1361(a)(1)). See paragraphs (a)(3), (4), and (5) of this section for rules concerning the definition of the term "limited entrepreneur." See paragraph (a)(7) of this section for rules concerning the registration of offerings with Federal or State agencies.

(2) *Special rules*—(i) An enterprise described in paragraph (a)(1)(ii) of this section is a farming syndicate for the first taxable year in which more than 35 percent of the losses are allocable to limited partners or limited entrepreneurs, and for all subsequent taxable years.

(ii) For purposes of paragraph (a)(1)(ii) of this section, the term "losses" means the excess of the deductions from the trade or business of farming allowable under the Internal Revenue Code to the enterprise for the taxable year (determined without regard to sections 278(b) and 464 and the regulations thereunder) over the amount of income received or accrued by the enterprise during the taxable year from the trade or business of farming. For purposes of this definition, the following amounts are not included in determining losses: gain and losses from the sale of capital assets or section 1231 assets; charitable contributions; and investment income or expenses.

(iii) A farming syndicate that is a partnership is considered terminated only if it would be considered terminated under section 708(b). The same principles apply to determine whether a farming syndicate that is not a partnership is considered terminated.

(iv) The provisions of paragraph (a)(2) of this section may be illustrated by the following examples.

Example (1). In 1983, D and E formed the DE limited partnership, a calendar year cash basis taxpayer. The principal business of the partnership is operating a peanut farm. In addition, the partnership has a business which prepares and sells "DE peanut butter." D, who is the general partner, owns a 75 percent interest in the partnership, and E, who is the limited partner, owns a 25 percent interest. The partnership agreement provides that 75 percent of the partnership's operating income and losses from the peanut farm, exclusive of specially allocated deductions, will be allocated to D, and 25 percent will be allocated to E. The partnership agreement also provides that 40 percent of the partnership's fertilizer expenditures will be specially allocated to D, and 60 percent will be specially allocated to E. The partnership agreement further provides that 50 percent of DE's income and losses from the sale of DE peanut butter will be specially allocated to D, and 50 percent will be specially allocated to E. During 1983, DE incurred taxable losses described in section 702(a)(8) attributable to the peanut farm operations of $100, fertilizer expenditures of $200, and income from the sale of DE peanut butter of $230. The calculation necessary to determine whether DE is a farming syndicate for 1983, under section 464(c)(1)(B) and § 1.464–2(a)(1)(ii), is as follows:

Taxable loss described in section 702(a)(8) attributable to the peanut farm operations, for 1983	$100	
Specially allocated deduction attributable to the peanut farm operations for 1983	200	
Total	$300	
Taxable loss described in section 702(a)(8) attributable to the peanut farm operations, for 1983, allocated to E	$25	
Deduction for 1983 attributable to the peanut farm operations specially allocated to E	120	
Total	$145	
Total losses attributable to the peanut farm operations allocated to E	$145	=48%
Total losses attributable to the peanut farm operations of partnership	$300	

The business of preparing and selling DE peanut butter is not a trade or business of farming. Therefore, neither the income nor the deductions attributable to the preparation or sale of DE peanut butter is included in the section 464(c)(1)(B) calculation. For purposes of paragraph (a)(1)(ii) of this section, 48 percent of the DE partnership's loss from the trade or business of farming for 1983 is considered allocated to E, the limited partner. Therefore, the DE partnership is a farming syndicate for 1983 and all subsequent years.

Example (2). Assume the same facts as in example (1) except that during 1983, DE had operating income from the peanut farm, exclusive of specially allocated deductions, of $160. The calculation necessary to determine whether DE is a farming syndicate for 1983, under section 464(c)(1)(B) and § 1.464–2(a)(1)(ii), is as follows:

Taxable income described in section 702 (a) (8) attributable to the peanut farm operations, for 1983	$160	
Specially allocated deduction attributable to the peanut farm operations for 1983	(200)	
Total	$(40)	
Taxable income described in section 702 (a) (8) attributable to the peanut farm operations for 1983, allocated to E	$(40)	
Deduction for 1983 attributable to the peanut farm operations allocated to E	(120)	
Total	$(80)	
Total losses attributable to the peanut farm operations allocated to E	$(80)	=200%
Total losses attributable to the peanut farm operations allocated to E	$(40)	

For purposes of paragraph (a)(1)(ii) of this section, 200 percent of the DE partnership's loss from the trade or business of farming for 1983 is considered allocated to E, the limited partner. Therefore, the DE partnership is a farming syndicate for 1983 and all subsequent years.

(3) *Limited entrepreneur.* For purposes of this section, the term "limited entrepreneur" means a person who has an interest in an enterprise other than as a limited partner and who does not actively participate in the management of such enterprise. The determination of whether a person actively participates in the management or operation of a farming enterprise depends on the facts and circumstances of each case. Factors which tend to indicate active participation include participating in the decisions involving the operation or management of the farm, actually working on the farm, living on the farm, or hiring and discharging employees (as compared to only the farm manager). Factors which tend to indicate a lack of active participation include lack of control of the management and operation of the farm, having authority only to discharge the farm manager, having a farm manager who is an independent contractor rather than an employee, and having limited liability for farm losses. For purposes of this paragraph, lack of fee ownership of the farm land shall not be a factor indicating a lack of active participation.

(4) *Limited liability.* (i) For purposes of paragraph (a)(3) of this section in determining whether a person has limited liability for farm losses, all the facts and circumstances are to be taken into account.

(ii) A person generally will be considered to have limited liability for farm losses if that person is protected against losses to any significant degree by nonrecourse financing, stop-loss

orders, guarantees, fixed price purchase or repurchase agreements, insurance, or other similar arrangements. Examples of persons with limited liability for farm losses include, in appropriate circumstances:

(A) A general partner who has obtained a guaranty or other protection against loss from another general partner or an agent, or

(B) A principal who has given actual authority to another party to conduct the farm operations, such as an investor in feeder cattle who employs a feedlot manager to manage the cattle, and who utilizes nonrecourse financing, stop-loss orders, insurance, or other similar arrangements to limit the risk of loss.

(5) *Active partners and entrepreneurs.* For purposes of paragraph (a)(1)(ii) of this section, the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

(i) In the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation;

(ii) In the case of any individual whose principal residence is on a farm, any interest in a partnership or other enterprise engaged in the trade or business of farming such farm;

(iii) In the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in paragraph (a)(5) (i) or (ii) of this section, any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in paragraph (a)(5) (i) or (ii));

(iv) In the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming; and

(v) Any interest held by a member of the family as defined in section 267(c)(4) (or a spouse of any such member) of a grandparent of an individual described in paragraph (a)(5) (i), (ii), (iii), or (iv) of this section if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in paragraph (a)(5) (i), (ii), (iii), or (iv).

For purposes of paragraph (a)(5)(i) of this section, an interest in a partnership or other enterprise unrelated to the trade or business in the management of which the limited partner or limited entrepreneur participated will not be considered attributable to such participation; however, where the farming enterprise substitutes one farm for another or adds a farm to its trade or business, both farms shall be treated as one farm.

(6) *Examples.* The provisions of paragraphs (a)(5) (i), (iv) and (v) of this section may be illustrated by the following examples:

Example (1). A, an individual who has owned and operated a farm for more than 5 years, retires and forms the AB partnership with B, an unrelated individual who actively manages the farm. More than 35 percent of the losses are allocated to A, the limited partner. The AB partnership will not be treated as a farming syndicate because, pursuant to section 464(c)(2)(A) and paragraph (a)(5)(i) of this section, A's interest is not treated as a limited partnership interest for purposes of determining whether losses are allocated to limited partners. If A's interest is transferred to C, A's child, the BC partnership will not be a farming syndicate, whether the transfer occurs before or after A's retirement or death. See paragraph (a)(5)(v) of this section.

Example (2). H is the owner and full-time manager of the LR apple orchard. H has operated the LR apple orchard for 10 years. H also holds a limited partnership interest in the JHU partnership, which owns and operates another apple orchard. The JHU partnership will not be treated as a farming syndicate solely because of the limited partnership interest held by H. Since H's principal business activity is the active management of the LR apple grove, H's limited partnership interest in the JHU partnership shall be treated under section 464(c)(2)(D) and paragraph (a)(5)(iv) of this section as an interest which is not held by a limited partner.

(7) *Registration with a Federal or State agency.* (i) For purposes of section 464(c)(1)(A) and paragraph (a)(1)(i) of this section, the question of whether an offering is required to be registered with a state agency having authority to regulate the offering of securities for sale is a question of state law. Thus, it may happen that an enterprise in one state is a farming syndicate under paragraph (a)(1)(i) of this section while a similar enterprise in another state is not. In addition, if interests in a particular enterprise are offered for sale in more than one state, any one of which requires registratioin of the offering, all the interests in the enterprise will be treated as subject to the registration requirement for purposes of section 464(c)(1)(A) and paragraph (a)(1)(i) of this section.

(ii) Offerings made through a dealer who is a member of the National Association of Securities Dealers, or through a real estate company, as well as interests in private enterprises which are not sold by a broker-dealer or similar party, are not offerings within the scope of section 464(c)(1)(A) and paragraph (a)(1)(i) of this section if they are not required to be registered with any Federal or state agency having the authority to regulate the offering of securities for sale. However, such an offering may fall within the scope of paragraph (a)(1)(ii) of this section if it meets the 35 percent test of that paragraph.

(b) *Farming.* For purposes of section 464 and the regulations thereunder, the term "farming" means the cultivation of land or the raising or harvesting of any agricultural or horticulture commodity, including the raising, shearing, feeding, caring for, training and management of animals. For example, farming includes the raising of fish, poultry, bees, dogs, flowers or vegetables. Farming does not, however, include the raising or harvesting of trees (other than fruit or nut bearing trees). For purposes of this paragraph (b), the raising or harvesting of trees include forestry (*i.e.*, the care and conservation of forests), the timber and logging industries, and the raising of trees for lumber or pulp, but does not include the raising or harvesting of plants grown for home decoration, aesthetic, or landscaping purposes, including ornamental trees, Christmas trees, house plants that are called trees, and house plants with tree-like qualities (such as scheffleras, Norfolk Island pines, ficus decova, weeping figs, areca palms, and parlor palms).

(c) *Other similar farm supplies.* The term "other similar farm supplies" in section 464(a) and § 1.464–1(a)(1) means those supplies used in raising or producing farm assets the costs of which are allowed (without regard to section 464) as deductions against income in the taxable year in which the supplies are purchased by the taxpayer.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-30789 Filed 11-14-83; 8:45 am]

BILLING CODE 4830-01-M

---

26 CFR Part 1

[LR-85-80]

Revision of Actuarial Tables and Interest Factors

Correction

In FR Doc. 83–29137 beginning on page 50087 in the issue of Monday, October 31, 1983, make the following correction:

In § 1.664–4, on page 50096, midde column, paragraph 9b, sixth line,

"December 12," should read "December 1,".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Public Comment Period and Opportunity for Public Hearing on Proposed Condition of Approval to the Alabama Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and the opportunity for public hearing on the proposed action to impose a new condition of the Secretary of the Interior's approval of the Alabama permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed action is made to comply with a United States District Court decision in *Citizens for Responsibility Resource Development* v. *Watt* regarding the State's provisions for approving exemptions from the requirements for operators to return mined lands to their approximate original contour.

In addition, OSM is proposing to reconsider and approve two other parts of Alabama's program. The first relates to partial bond release prior topsoil replacement; the second concerns bond replacement by a permittee in the event of the insolvency of a surety or bank.

This notice sets forth the times and locations that the Alabama program is available for public inspection, the comment period during which interested persons may submit written comments on the proposed action, and information pertinent to the public hearing.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. on December 15, 1983, will not necessarily be considered.

A public hearing on the proposed modifications has been scheduled for December 12, 1983, at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. John T. Davis at the address or phone number listed below by the close of business *four working days* before the date of the hearing. If no one has contacted Mr. Davis to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Davis by the above date, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

The public hearing will be held at the Office of Surface Mining, Birmingham Field Office, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama.

Copies of the Alabama program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240.

Birmington Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254-0890.

SUPPLEMENTARY INFORMATION: The Alabama program was conditionally approved by the Secretary of the Interior on May 20, 1982 (47 FR 22030-22058). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found in the May 20, 1982 **Federal Register.**

Background on the Proposed Condition

The Federal rules at 30 CFR 785.16(c)(4)(iii) provide that the appropriate State environmental agency must approve a variance from the approximate original contour restoration requirements for steep slope mining. The United States District Court for the Middle District of Alabama in *Citizens for Responsible Resource Development* v. *Watt*, civil No. 82-530-N, October 7, 1983, remanded to the Secretary of the Interior the corresponding provision in the Alabama program. Specifically, the court noted that Alabama's rule at 880-X-8J-.07 (previously codified as 785.16(c)(4)) is inconsistent with SMCRA and the Federal rules because it omits any reference to the need for the appropriate State environmental agency to approve variance plans. The court decided that the Federal rules establish a two-tiered variance approval system where by the regulatory authority may issue a permit which incorporates a variance from the requirements for restoration of the affected lands to their approximate original contour only if, *inter alia*, the appropriate State environmental agency approved the plan. The court held that since the Alabama regulation provides only a one-tier variance approval system, it is less stringent than and does not meet the applicable provisions of SMCRA.

The District Court remanded this provision of the Alabama program to the Secretary with instructions to rectify this matter. Therefore, the Secretary proposes to add a new condition to the Alabama program whereby the State must amend its program by a specified date to incorporate requirements no less effective than 30 CFR 785.16(c)(4)(iii). The Secretary requests public comment on this proposed action.

Pursuant to 30 CFR 732.17(e), the Director recently notified Alabama by letter that a State program amendment is required because conditions and events indicate that the approved State program no longer meets the requirements of SMCRA and the Federal regulations. A copy of the Director's letter will be placed in the administrative record shortly. Therefore, pursuant to 30 CFR 732.17(f)(1), Alabama shall submit to the Secretary within 60 days after notification either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of SMCRA and the Federal regulations, and a timetable for enactment which is consistent with established administrative or legislative procedures. Failure of the State to submit the proposed amendment or description and the enactment timetable with the prescribed 60 days, or subsequent failure to comply with the submitted timetable, or disapproval by the Secretary of the amendment, could result in proceedings under 30 CFR Part 733 to either enforce that part of the

State program affected or withdraw approval, in whole or in part, of the State program and implement a Federal program.

Background on Remaining Remanded Provisions of the Alabama Program

The District Court remanded two other provisions of Alabama's program to the Secretary for further action. However, in both cases, the Federal provisions cited by the court, and by the Secretary in the **Federal Register** notice announcing the conditional approval of Alabama's program, have been changed. Therefore, the Secretary proposed to reconsider and approve these two provisions.

The first remanded provision concerns the Secretary's approval of Alabama's provision allowing partial bond release prior to topsoil replacement. Under the Federal rules which existed at the time the Alabama program was conditionally approved, 30 CFR 807.12 allowed the regulatory authority discretion to release sixty percent of the bond upon completion of Phase I reclamation. The Federal rules at 30 CFR 807.12(e)(1) required topsoil replacement as one of the elements which must be finished in order for reclamation Phase I to be deemed to have been completed. Alabama's provision at 880–X–9D omits this requirement. However, the Federal rules have since been changed. The new rule at 30 CFR 800.40(c)(1) provides that Phase I reclamation which would allow partial bond release *may* include topsoil replacement, but the requirement of topsoil replacement is no longer mandatory (48 FR 32932, July 19, 1983).

The other remanded provision concerns the Secretary's approval of Alabama's rules governing bond replacement in the event of the insolvency of a surety or bank. Under the Federal rules that existed at the time the Alabama program was conditionally approved, 30 CFR 806.12 (e)(6)(iii) and (g)(7)(iii) provided that during the period an operator is without bond coverage and is seeking a replacement bond, the regulatory authority shall conduct weekly inspections of the affected site(s). The Alabama counterparts at 880–X–9C–.03(5)(e)(3) and (6)(h)6(iii) omit this requirement. Subsequent to the Secretary's conditional approval of Alabama's program, the Federal rules concerning bond replacement were changed to no longer require weekly inspections. *See* 30 CFR 800.16(e)(2), 48 FR 32932, July 19, 1983.

In order to respond to the District Court's remand of these two Alabama provisions, OSM is seeking public comment on whether the existing Alabama provisions are in accordance with SMCRA and are now no less effective than the current Federal rules. If the Secretary finds that the existing State provisions meet the revised Federal requirements, no further action by Alabama concerning these matters would be required. In the event deficiencies are identified, the Secretary would then pursue further actions with the State including, but not limited to, imposing additional conditions of approval on the Alabama program.

Additional Determinations

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

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

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

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

List of Subjects in 30 CFR Part 901

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

Accordingly, 30 CFR 901.11 is proposed to be amended as set forth herein.

Dated: November 8, 1983.

J. Roy Spradley,

Acting Director, Office of Surface Mining.

PART 901—ALABAMA

30 CFR 901.11 is proposed to be amended by adding new paragraph (n) to read as follows:

§ 901.11 Conditions of State regulatory program approval.

* * * * *

(n) Termination of the approval found in § 901.10 will be initiated on ————, unless Alabama submits to the Secretary by that date, a copy of promulgated regulations, or otherwise amends its program to contain provisions no less effective than 30 CFR 785.16(c)(4)(iii) to require that the appropriate State environmental agency approve any plan providing for a variance from the requirements for restoration of lands to their approximate original contour before a permit providing for such an exemption can be issued by the Alabama Surface Mining Commission.

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

[FR Doc. 83–30759 Filed 11–14–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2461–4]

Approval and Promulgation of State Implementation Plans; Monterey Bay Unified Air Pollution Control District Emissions Trading Rule; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interpretative Ruling of January 16, 1979, (40 CFR 51, Appendix S), authorized states to develop voluntarily emissions banking and trading rules which would be submitted to EPA for incorporation into the State Implementation Plan (SIP). The Monterey Bay Unified Air Pollution Control District (MBUAPCD) adopted Rule 215—Banking of Emissions Reductions on October 20, 1982. The intended effect of this banking rule is to establish, in conjunction with the District's NSR Rule 207, an emissions trading program that will give the District the authority to regulate a system for banking and trading emission reductions and to approve all emissions banking and trading transactions under the SIP. The rule was officially submitted as a SIP revision on April 11, 1983. In today's notice, EPA is proposing to approve the Monterey banking rule.

DATE: Comments may be submitted through December 15, 1983.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air Management Division, Air Operations

Branch, New Source Section, EPA, Region 9, 215 Fremont Street, San Francisco, Calif. 94105

Copies of the proposed revisions and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address and the following locations:

Monterey Bay Unified Air Pollution Control District, 1164 Monroe St., Suite No. 10, Salinas, California 93906.

Air Resources Board, 1102 Q Street, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Nancy Harney, New Source Section, Air Operations Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-8213, FTS 454-8213.

SUPPLEMENTARY INFORMATION:

Background

The Interpretative Ruling of January 16, 1979 (40 CFR 51, Appendix S), authorized, on a voluntary basis, emissions banking and trading systems. States and districts who were interested in emissions trading were encouraged to develop banking and trading rules. Such rules must now meet EPA's minimum legal requirements for emissions trading contained in the Emissions Trading Policy Statement of April 7, 1982 (47 FR 15076). The policy statement describes the general principles EPA will use to evaluate rules which govern the creation, banking, and use of emission reduction credits (ERCs).

The primary requirements for an emissions banking and trading rule include the following: (1) the rule must clearly delineate the requirements and procedures for creating, banking and using ERCs which are consistent with the Clean Air Act and all other air pollution control regulations, including 51.18 (NSR) and 51.24 (PSD); (2) credible emission reductions must be surplus, permanent, quantifiable and enforceable; (3) only emission reductions which are not already required by other local, state or federal regulations or that have not been assumed in the area's attainment demonstration are eligible for banking and trading; and (4) the rule must include provisions which assure the attainment and maintenance of reasonable further progress.

Description of Regulations

In response to the Emissions Trading Policy Statement of April 7, 1982, the Monterey Bay Unified Air Pollution Control District developed and adopted a banking rule on October 20, 1982. Rule 215—Banking of Emissions Reductions was submitted to EPA as an official SIP revision on April 11, 1983 as an amendment to Regulation II. Rule 215 includes the following specific sections: Part A—Introduction, Sections 1-3; Part B—Creating ERCs, Sections 1-3; Part C—Banking ERCs, Sections 1-10; Part D—Using ERCs, Sections 1-3.

Evaluation

EPA has evaluated the rule described above to determine whether it satisfies the minimum legal requirements for creation, storage, and use of emission reduction credits in any emissions trade. EPA has completed a detailed Evaluation Report which is available for public review (see "ADDRESSES"). The Evaluation Report discusses the Monterey submittal and compares it to the federal emissions trading requirements. EPA believes that, with the exception of the items described below, the MBUAPCD banking rule satisfies EPA requirements because it: (1) Establishes adequate prodedures and requirements for the creation, banking and use of emission reduction credits; (2) assures the ERCs will be surplus, permanent, quantifiable, and enforceable; (3) prohibits double-counting; (4) protects RFP by authorizing the APCO to declare a full or partial moratorium on the deposit and/or use of ERCs; (5) requires the more stringent application of BACT rather than RACT for calculation of emission reduction credits; (6) prohibits granting credits for the closure of "inelastic" demand sources, where the demand for sevices will shift to another source in the area and therefore not result in significant decrease in emissions basin-wide; (7) establishes a community bank; (8) applies a discount factor to the use of credits from shutdowns and curtailments in production; (9) requires a source owner to demonstrate that use of ERCs as offset will not interfere with the attainment or maintenance of any ambient air quality standard.

In its review of the rule, EPA found two deviations from EPA requirements:

Interpollutant Offsets

The Monterey banking rule does not specifically prohibit interpollutant offsets as required by the Emissions Trading Policy Statement. In addtion, the District's NSR/PSD rule allows the use of such offsets. However, EPA has agreed with the State of California that interpollutant offsets will be approvable provided that a District will not allow the transaction unless the offset is compatible with RFP. Therefore, based on this agreement between California and EPA, EPA does not object to the absence of a ban on interpollutant offsets in the banking rule.

Emission Reduction Credit for Source Shutdowns and Curtailments in Production

Pursuant to 40 CFR 51.18(j)(3)(ii)(c), source shutdowns and curtailments in production or operating hours occurring prior to the new source application may not be used for emission offset credit unless the shutdown or curtailment occurred after August 7, 1977 or one year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment credit. Contrary to this requirement, the Monterey banking rule, Part B.3.c., allows ERCs from prior source shutdowns and curtailments in production to be used as offsets.

Because MBUAPCD's banking rule does not limit the use of emission reduction credits from prior shutdowns to replacements only, the rule does not fully meet EPA requirements. Therefore, we cannot approve Part B.3.c. which addresses the use of shutdown credits as offsets without the required EPA restrictions. EPA in the **Federal Register** of August 25, 1983 proposed regulation changes to implement the settlement agreement reached in *Chemical Manufacturers Association (CMA) v. EPA*, No. 79-1112 (D.C. Circuit, February 22, 1982). The regulation proposes to remove the replacement unit restriction on shutdown and production curtailment emission credits. If EPA should finalize the regulation as proposed, then Part B.3.c. of the MBUAPCD submittal would be approvable. However, until that time, the Federal laws require State plans to restrict the use of shutdown or production curtailment credits to replacement units. Therefore, EPA is taking no action at this time on Rule 215, B.3.c. At the time the rulemaking effort pursuant to the CMA settlement is resolved, EPA may be able to approve provision B.3.c. The current Monterey SIP meets the requirements of 51.18(j)(3)(ii)(c) because it includes an approved restriction on the use of reduction credits from source shutdowns and curtailments in production which will remain in effect.

One other concern and potential problem has been identified. The Monterey banking rule relies through unqualified cross-reference on the calculation and offset provisions of the District's New Source Review Rule 207. To assure that EPA-approved calculation and offset procedures are adhered to under the banking program, EPA is proposing action in this notice to

(1) approve Part B.2.c. of Rule 215 to the extent that it is interpreted to refer to Section (F)(2) of the District's current NSR Rule 207; and (2) approve the current Section (F)(2) for the purposes of Part B.2.c. of Rule 215. EPA is further clarifying that it is proposing to approve Part D.2.a. of the banking rule only to the extent that it is interpreted to refer to provisions governing the use of emission reductions in Rule 207 that are approved by EPA. (For a more detailed discussion of cross-referencing, see the Evaluation Report for the Monterey banking rule.)

Proposed Action

EPA proposes to approve the addition of Rule 215—Banking of Emissions Reductions to the Monterey SIP. The one exception is that EPA proposes to take no action on Part B.3.c., which pertains to source shutdowns and production curtailments. If the proposed CMA regulatory change does not occur, this section of the rule will have to be revised. If, however, the proposed regulation is approved, EPA will take the necessary steps to approve this provision without requiring a resubmittal by the District.

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

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

(Secs. 110, 129, 160 to 169, 171 to 173 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503 and 7601(a)))

List of Subjects in 40 CFR Part 52

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

Dated: August 8, 1983.

Harry Seraydarian,

Acting Regional Administrator.

[FR Doc. 83-30543 Filed 11-14-83; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-4-FRL 2469-8]

Approval and Promulgation of Implementation Plan; Louisiana Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: As required by Section 110(a) of the Clean Air Act and the October 5, 1978 (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of Louisiana has submitted a State Implementation Plan (SIP) for lead. This action proposes approval of the part of the lead SIP which provides for attainment and maintenance of the lead NAAQS for the Baton Rouge area of the State. The rest of the Louisiana lead SIP was previously approved by EPA in a **Federal Register** notice published on July 28, 1982 (47 FR 32529).

DATES: Interested persons are invited to submit comments on this proposed action on or before December 15, 1983.

ADDRESSES: Written comments should be sent to John Hepola, Chief, State Implementation Plan Section, EPA (6AW-AS), 1201 Elm Street, Dallas, Texas 75270. Copies of the SIP and EPA's Evaluation Report are available for public review during normal business hours at the following locations:

Louisiana Department of Natural Resources, Office of Environmental Affairs, Air Quality Division, 625 North 4th Street, Baton Rouge, LA. 70804

EPA, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, State Implementation Plan Section, Air Branch, EPA, Region 6, at (214) 767-9855 or FTS 729-9855.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (μg lead/m^3 averaged over a calendar quarter. As required by Section 110 of the Clear Air Act (CAA), and the October 5, 1978 promulgation of the NAAQS for lead, all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS. Louisiana has developed and submitted such a SIP.

The general requirements for a SIP are outlined in Section 110 of the Clean Air Act and EPA regulations 40 CFR 51, Subpart B. Specific requirements for developing a lead SIP are outlined of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for ensuring maintenance of the NAAQS. EPA has evaluated the Louisiana lead SIP by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations.

On July 27, 1979, the Governor of Louisiana submitted to EPA a lead SIP for the State of Louisiana. A public hearing was held concerning the State's lead SIP on July 24, 1979. Additional information concerning the lead SIP was submitted to EPA in letters dated January 6, 1982, April 1, 1982, January 4, 1983, and September 15, 1983. On July 28, 1982 (47 FR 32529), EPA approved the Louisiana lead SIP except for the part of the SIP concerning the Baton Rouge area. As explained in the notice and in EPA's March 1982 Evaluation Report, additional information was requested from the State to correct discrepancies that existed between EPA and State modeling for Ethyl Corporation in Baton Rouge, Louisiana. Therefore, EPA delayed action on the Baton Rouge area until the State could submit additional information for the Ethyl facility, which the State submitted to EPA in letters dated January 4, 1983 and September 15, 1983.

II. Description of the Louisiana Lead SIP

In the State's January 4, 1983 letter to the Regional Office, Louisiana submitted to EPA additional modeling of lead concentrations around the Ethyl Corporation's lead gasoline additive manufacturing plant in Baton Rouge. The modeling submitted in January was in addition to the modeling for Ethyl that the State submitted previously in the original Louisiana lead SIP. The modeling submitted in January for Ethyl used the Texas Climatology Model, Version 2 (TCM-2), urban mode, which is a model which has been approved only for use as a screening model. The TCM-2 modeling used STAR meteorological data for the five years of 1970-1974 for the Baton Rouge area, which is an appropriate meteorological data base. The State was requested by the Regional Office to redo the modeling using the Industrial Source Complex-Short Term model (ISC-ST) which is an approved model for industrial sources and is suggested by EPA for modeling of lead point sources in flat (or non-complex) terrain areas. The State has done the modeling using the urban mode, and using worst case meteorological data for the third quarter for the years 1970-1974. The State decided to model the third quarter scenario because three previous modeling exercises done for the Ethyl facility have each shown that the third quarter of the year provides for worst case meteorology in the Baton Rouge area, and therefore provides predictions

of the highest values of lead concentrations around the facility.

The State submitted the ISC–ST modeling to the Regional Office in a letter dated September 15, 1983. A description of the modeling, and EPA's evaluation of the modeling, is provided in EPA's Evaluation Report, which is available for public review at the locations listed in the Addresses section of this notice. The State also submitted to EPA in the September 1983 letter a description of the stack emission limitations for the lead emitting furnaces at Ethyl which the company has agreed to, along with a draft final State administrative order (A.O.). The final A.O. will include the three parts of the State's lead control strategy for the Ethyl facility: the A.O. will require Ethyl to meet new emission limitations for lead, to raise the height of the six reverbatory furnace stacks to a height of 179 feet, and to limit the operation of the facility to no more than five reverbatory furnaces operating at any one time. Enforcement of the final A.O. will ensure that the State's lead control strategy for the Ethyl facility is implemented. The State plans on holding a public hearing on the draft A.O. in October, which will include a 30 day public comment period. The State plans to submit a final Ethyl A.O. to EPA as soon as possible after the public hearing. With the implementation of the final State A.O. for Ethyl (which is to be submitted to EPA before EPA takes final action on the Baton Rouge area) and with the continuing enforcement of Louisiana regulations 19 and 19 A.O., which limit particulate and lead emissions for sources throughout Louisiana, the Louisiana lead SIP for Baton Rouge provides for the attainment and maintenance of the lead NAAQS in Baton Rouge. As mentioned earlier in this notice, the rest of the Louisiana lead SIP has been reviewed and approved by EPA as adequate for the attainment and maintenance of the lead NAAQS throughout the State.

In a recent decision the United States Court of Appeals for the District of Columbia remanded portions of EPA's stack height regulations to the Agency for promulgation of new regulations governing credit to be given for stack height increases in certain situations. *Sierra Club et al.* v. *EPA et al.*, Nos. 82–1384, 82–1412, 82–1845 and 82–1889 (D.C. Cir. Oct. 11, 1983). The raising of the height of the stacks on Ethyl Corporation's six reverbatory furnaces in order to provide for attainment of the national ambient air quality standards for lead is not inconsistent with that decision. The maximum height of each of the stacks *after* they are raised will only be 179 feet, approximately 21 feet below the *de minimus* stack height in EPA's regulations. 40 CFR 51.1(ii)(1)(1982). The Court of Appeals did not address the *de minimus* height, nor did any of the petitioners take issue with it.

EPA's Action:

EPA has evaluated the Baton Rouge part of the Louisiana lead SIP and has determined that it meets the requirements of Section 110(a) of the Clean Air Act and 40 CFR Part 51, Subparts B and E. EPA believes that the Baton Rouge part of the SIP is adequate to attain and maintain the lead NAAQS's throughout Baton Rouge, with the implementation of the State's A.O. for the Ethyl facility. EPA is proposing approval of the Baton Rouge part of the State's lead SIP, since the State has submitted to EPA a draft A.O., and has agreed to submit a final A.O. for Ethyl before EPA's final rulemaking. Upon receipt of an approvable final A.O. for Ethyl, EPA will proceed with the development of a final rulemaking for the Louisiana lead SIP for Baton Rouge. EPA finds that the Louisiana SIP that has been approved for other NAAQS's contains regulations that satisfy general regulations not specifically mentioned in the lead SIP, and these general regulations can be incorported into the State's lead SIP.

The Regional Administrator here by issues this notice setting forth EPS's approval of the Baton Rouge part of the Louisiana lead SIP as a proposed rulemaking, and advises the public that interested persons may participate by submitting written comments to the Region VI office. Comments received on or before the date listed in the DATES section will be considered. Comments received will be available for public inspection at the EPA Region VI office and at the locations listed in the **ADDRESSES** section of this notice.

The Administrator's final decision to approve or disapprove the Baton Rouge part of the Louisiana lead SIP will be based on the comments received, on the submittal of an approvable final State administrative order for the Ethyl facility, and on a detemination whether the SIP meets the requirements of Section 110(a) of the Clean Air Act and 40 CFR Part 51, Subpart B and E.

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), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (Sec 46 FR 8709).

This notice of proposed rulemaking is issued under the authority of Section 110(a)—of the Clean Air Act, 42 U.S.C. 7410(a).

Lists of Subjects in 40 CFR Part 52

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

Dated: October 14, 1983.

Frances E. Phillips,

Regional Administrator.

[FR Doc. 83–30751 Filed 11–14–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6547]

Proposed Flood Elevation Determination; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed Rule; Deletion.

SUMMARY: The Federal Emergency Management Agency has erroneously published the proposed flood elevation determination for the Village of Bartonville, Peoria County, Illinois, at 48 FR 34085, on July 27, 1983. This notice will serve to delete that publication.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the Village of Bartonville, Peoria County, Illinois, published at 48 FR 34085, on July 27, 1983, should be deleted. The notice of final elevations will be issued after this deletion is published.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Emergency Management Agency)

Issued: November 1, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–30745 Filed 11–14–83; 8:45 am]

BILLING CODE 6718–03–M

Notices

Federal Register
Vol. 48, No. 221
Tuesday, November 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 COMMERCE

International Trade Administration

[C-559-001]

Amendment to Notice of Suspension of Investigation; Certain Refrigeration Compressors from the Republic of Singapore

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of amendment to notice of suspension of investigation; certain refrigeration compressors from the Republic of Singapore.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending the "Notice of Suspension of Countervailing Duty Investigation of Certain Refrigeration Compressors from the Republic of Singapore." This amendment corrects the DOC Position in response to Petitioner's comment 5.

EFFECTIVE DATE: November 15, 1983.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Investigations, Import Administration, Trade Administration, Department of Commerce, 14th and Constitution, Washington, D.C. 20036, at (202) 377-3530.

SUPPLEMENTARY INFORMATION: The Department of Commerce is publishing a "Notice of Suspension of Countervailing Duty Investigation of Certain Refrigeration Compressors from the Republic of Singapore." The DOC Position in response to Petitioner's comment 5 is being amended to read as follows: "We have no verified information regarding these benefits. Based on information presently available, however, we have included benefits from the Training Grant Scheme and Interest Grant for Mechanisation Scheme in the export charge offset provisions of the suspension agreement."

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-30785 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Brookhaven National Laboratory

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 89 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-254. Applicant: Brookhaven National Laboratory, Upton, N.Y. 11973. Instrument: Monochromator Crystals. Manufacturer: Cristal Tec, France. Intended use: See notice at FR 36505.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. NBS advises in its memorandum dated October 28, 1983 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

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

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-30787 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Sutter Community Hospitals, et al.

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specfied time period. This is the case for each of the listed dockets.

Docket No. 82-00191. Applicant: Monsanto Research Corporation, Miamisburg, OH 45342. Instrument: Two (2) Mass Spectrometers, MM 3001. Date of denial without prejudice to resubmission: July 1, 1983.

Docket No. 83-179. Applicant: Sutter Community Hositals, Sacramento, CA 95819. Instrument: Electron Microscope, EM 109. Date of denial without prejudice to resubmission: August 8, 1983.

Docket No. 83-186. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Toroidal Grazing Incidence Mirror for VUV Monochromator. Date of denial without prejudice to resubmission: August 12, 1983.

Docket No. 83-187. Applicant: U.S. Department of Interior, Bureau of Reclamation, Denver, CO 80225. Instrument: Fast Atom Bombardment Accessory for Mass Spectrometer. Date of denial without prejudice to resubmission: August 8, 1983.

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

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-30788 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 30913-188]

Approval of Federal Information Processing Standard 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. Responsibilities of the National Bureau of Standards for the development, publication, and promulgation of data element and representation standards are defined in Part 6 of Title 15 of the Code of Federal Regulations. On December 28, 1982, a notice was published in the Federal Register (47 FR 57745) that a standard for Codes for Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 103. Use of this standard by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

FIPS PUB 103 was developed by the U.S. Geological Survey, U.S. Department of the Interior, under its Memorandum of Understanding with the National Bureau of Standards to lead the development and maintenance of earth science data element and representation standards. Expected benefits to Federal agencies using this standard in their processing applications include reduced costs of data management and related paperwork, and improved opportunities for more effective use of data resources. The standard is expected to reduce duplication and promote coordination in information exchange involving Executive departments and independent agencies.

The approved FIPS contain two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

Interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Roy Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3491.

Ernest Ambler,
Director.

Federal Information Processing Standards Publication 103

1983 (Month) (Day)

Announcing the Standard for Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas

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 Administrative Services Act of 1949, as amended, Pub. L. 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:* Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas, (FIPS PUB *103*).

2. *Category of Standard:* Federal General Data Standard, Representations and Codes: Earth Science Series.

3. *Explanation:* This standard adopts the set of codes used to identify hydrologic units published in *Geological Survey Circular 878-A*. These codes identify a hydrologic system that divides the United States and Caribbean outlying areas into 21 major regions. These regions are further subdivided into approximately 2150 units that delineate river basins having drainage areas usually greater than 700 square miles. The codes provide a standardized base for use by water-resources organizations in the storage, retrieval, and exchange of hydrologic date; the indexing and inventorying of hydrologic data and information; the cataloging of water-data acquisition activities; and a variety of other applications.

This data standard is one of a series developed under the leadership of the U.S. Geological Survey for use in automated earth-science systems. Earth sciences include geology, topography, geography, and hydrology, and are concerned with the material and morphology of the Earth and physical forces relating to the Earth.

4. *Approving Authority:* The Secretary of Commerce.

5. *Maintenance Agency:* U.S. Geological Survey, Water Resources Division, Office of Water Data Coordination, 417 National Center, Reston, VA 22092.

Questions concerning the list of entities and codes should be addressed to the Office of Water Data Coordination, which will make all necessary amendments to the standard. The Geological Survey has assumed the leadership in developing and maintaining earth-science data element and representation standards under the terms of a Memorandum of Understanding signed in February 1980 by the National Bureau of Standards of the Department of Commerce and the Geological Survey, a bureau of the Department of the Interior.

The Maintenance Agency is responsible for the content of the standard and will provide the National Bureau of Standards with information on adopted changes. Change notices to the standard will be issued by the National Bureau of Standards. Users of the standard who need to be notified of changes may complete the change request form included in this publication and return the form to the address indicated.

6. *Cross Index:* None.

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 the public at large.

8. *Implementation Schedule:* This standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approval by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

9. *Specifications:* This standard adopts Geological Survey Circular 878–A, *Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas,* July, 1981, Reston, VA, except for cataloging units 21030001 (Panama Canal Zone) and 21030003 (Roncador and Serrana Banks), which are deleted.

10. *Where To Obtain Copies of the Standard:* Copies of this publication and the associated specifications are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication *103* (FIPS PUB *103*) and title. If microfiche is desired, this should be specified.

Inquiries concerning the FIPS data element standards program may be directed to the Program Manager, Data Element and Representation Standards, National Bureau of Standards, Washington, D.C. 20234; telephone (301) 921–3491.

11. *Directions for Ordering State Hydrologic Unit Maps:* See next page.

Directions for Ordering State Hydrologic Unit Maps

States *east* of the Mississippi River, including Minnesota and the Caribbean Region. Order from: Branch of Distribution, Eastern Region, U.S. Geological Survey, 1200 South Eads Street, Arlington, VA 22202, Phone: (703) 557–2750, (FTS) 557–2751.

Make check or money order payable to the U.S. Geological Survey. Prices subject to change.

State	Price
Scale: 1:500,000	
Alabama	$1.75
Caribbean Region [1]	1.75
Connecticut (Rhode Island and Massachusetts)	1.75
Delaware and Maryland	1.75
Florida	2.00
Georgia	1.75
Illinois	1.75
Indiana	1.75
Kentucky	2.00
Maine	1.75
Maryland and Delaware	1.75
Massachusetts (Rhode Island and Connecticut)	1.75
Michigan (2 sheets)	5.00
Minnesota	2.00
Mississippi	2.00
New Hampshire (Vermont)	1.75
New Jersey	1.75
New York	2.00
North Carolina	2.00
Ohio	1.75
Pennsylvania	1.75
Rhode Island (Massachusetts and Connecticut)	1.75
South Carolina	1.75
Tennessee	1.75
Vermont (New Hampshire)	1.75
Virginia	2.00
West Virginia	1.75
Wisconsin	2.00

[1] The map of the Caribbean Region includes Puerto Rico and the Virgin Islands. Scale 1:240,000.

States west of the Mississippi River, including Alaska, Hawaii, and Louisiana. Order from: Branch of Distribution, Central Region, U.S. Geological Survey, P.O. Box 25286, Federal Center, Denver, CO 80225, Phone: (303) 234–3832, (FTS) 234–3832.

Make check or money order payable to the U.S. Geological Survey. Prices subject to change.

State	Price
Scale: 1:500,000	
Alaska [1]	$1.75
Arizona	2.00
Arkansas	1.75
California (2 sheets)	5.00
Colorado	2.00
Hawaii	2.00
Idaho	2.00
Iowa	1.75
Kansas	2.00
Louisana	2.00
Missouri	2.00
Montana (2 sheets)	5.00
Nebraska	2.00
Nevada	2.00
New Mexico	2.00
North Dakota	2.00
Oklahoma	2.00
Oregon	2.00
South Dakota	2.00
Texas (4 sheets)	6.00
Utah	2.00
Washington	2.00
Wyoming	2.00

[1] Scale 1:2,500,000

Hydrologic Unit Map of the United States—1980, Scale 1:2,500,000, (2 sheets) $5.00. Order from Eastern Region.

Accounting Units of the National Water Data Network—1979, Scale 1:2,500,000.

Free from: Office of Water Data Coordination, 417 National Center, Reston, VA 22092.

[FR Doc. 83-30728 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-CN-M

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcement of laboratory accreditation actions for October 1983. The laboratories named below have been newly accredited for testing solid fuel room heaters (Stove LAP) under the National Voluntary Laboratory Accreditation Program (NVLAP). Also listed are the test methods for which those laboratories have been accredited under that program.

Omni Environmental Services, Solid Fuel Testing Laboratory, 10950 SW 5th Street, Suite 245, Beaverton, Oregon 97005, Attn: Gary E. Nelke, Phone: (503) 643–3755

Northwest Testing Laboratories, Inc., P.O. Box 17126, Portland, Oregon 97217, Attn: Paul Irish, Phone: (503) 288–7086

NVLAP code	Short title	Section of UL 737 fifth edition (March 1, 1982)	Section of UL 1482 second edition (January 24, 1983)
Physical/Fire Test Group (04/F00)			
04/F01	Test installation	8	8
04/F02	Temperatur measurement.	9	9
04/F04	Radiant fire test	11	11
04/F05	Coal fire test		14
04/F06	Brand fire test	12	12
04/F07	Flash fire test	13	13
04/F08	Strength tests	15	16
04/F09	Stability test	16	16
04/F10	Glazing test	14	16
Mobile Home Test Group (04/M00)			
04/M01	Test installation	17	17
04/M02	Toxic gas	17	17
04/M03	Drop test	17	17
Electrical Test Group (04/E00)			
04/E01	Test voltages	33	33
04/E02	Temperature measurements, eletrical components.	34	34
04/E03	Input test	35	35
04/E04	Temperature test, electrical components.	36	36
04/E05	Leakage current	38	38
04/E06	Dielectric withstand.	37	37
04/E07	Locked rotor (stalled motor) temperature.	39	39
04/E08	Power cord strain relief.	40	40

Accreditation for Additional Test Methods

The following laboratory, which was previously accredited for thermal insulation materials (Insulation LAP), has added a test method to its list of accredited test methods: Jim Walter Research Corporation, St. Petersburg, FL added ASTM C272—Water absorption: Core materials.

The following laboratories voluntarily terminated their accreditation.

Concrete LAP

Northern Testing Laboratories, Inc., Billings Area Laboratory, Billings, MT

Northern Testing Laboratories, Inc., Boise Area Laboratory, Boise, ID
Northern Testing Laboratories, Inc., Great Falls Area Laboratory, Great Falls, Montana

Carpet LAP

Walter Carpets, City of Industry, CA

Copies of the NVLAP Annual Report and Directory of Accredited Laboratories for 182, with quarterly updates, are now available.

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: November 8, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-30731 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Issuance of Marine Mammal Permit

On August 5, 1983, Notice was published in the **Federal Register** (48 FR 35694) that an application had been filed with the National Marine Fisheries Service by Mr. Kenneth C. Balcomb III, 1359 Smuggler's Cove Road, Friday Harbor, Washington 98250, for a permit for potential harassment while conducting census and identification studies of killer whales.

Notice is hereby given that on November 4, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to Kenneth C. Balcomb III to take an unspecified number of killer whales and humpback whales, subject to certain conditions as required by the Endangered Species Act of 1973. Issuance of this permit for humpback whales is based on a finding that such permit (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (30 FR 41367), November 24, 1974.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: November 7, 1983.

Izadore Barrett,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-30734 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-09-M

Dismissal of Federal Consistency Appeal of Union Oil Company From Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal of appeal.

SUMMARY: By letter dated September 21, 1983, Union Oil Company withdrew its appeal to the Secretary of Commerce filed on December 17, 1982, from the consistency objection of the California Coastal Commission to Union's proposed exploratory drilling on lease OCS-P 0203 near Anacapa Island in the Santa Barbara Channel. At the request of the parties, the National Oceanic and Atmospheric Administration (NOAA) stayed its consideration of the appeal, pending discussions by the parties to reach a settlement of the matters in dispute. These discussions lead to a decision by Union Oil Company to withdraw its appeal and to submit its Exploration Plan for lease OCS-P 0203 for consideration by the California Coastal Commission at its November 15, 1983 meeting. In response, the Secretary has dismissed the appeal effective October 31, 1983.

Notice is hereby given that the appeal by the Union Oil Company is dismissed in accordance with NOAA regulations at 15 CFR 930.128 and 930.130(d).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: November 8, 1983.

William Matuszeski,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-30703 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton and Man-Made Fiber Textile Products from the People's Republic of China

November 9, 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 Commisioner of Customs to be effective on November 16, 1983. For further information contact Diana Bass, International Trade Specialist, (202/377–4212).

Background

A CITA directive establishing import limits for specified categories of cotton and man-made fiber textile products, including Categories 331, 334, 337, 363, 634, 640, 641, and 647, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983, was published in the **Federal Register** on August 19, 1983 (48 FR 37686). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the Government of the People's Republic of China has notified the Government of the United States of its intention to use flexibility in the form of swing to be applied to the current-year limits for these categories. The limits for Categories 337, 363 and 640 are being reduced accordingly to account for swing being applied to Categories 331, 334, 634, 641, and 647.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 9, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,

Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of August 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1983.

Effective on November 16, 1983, the directive of August 19, 1983 is hereby further amended to adjust the previously established levels of restraint for Categories 331, 334, 337, 363, 634, 640, 641, and 647 to the following under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983:[1]

Adjusted 12-month level of restraint [1]	Category
3,687,167 dozen pairs	331
210,319 dozen	334
646,864 dozen	337
15,327,374 numbers	363
398,472 dozen	634
914,701 dozen	640
908,250 dozen	641
788,503 dozen	647

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1982.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreing affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-30788 Filed 11-14-83; 8:45 am]

BILLING CODE 3510-05-M

CONSUMER PRODUCT SAFETY COMMISSION

Public Health and Safety Finding on Certain Amusement Rides

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission has made a finding that the public health and safety requires the dissemination of information on certain amusement rides within a lesser period than 30 days after the manufacturer (importer) of the rides is notified.

[1] The Agreement provides, in part, that (a) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

FOR FURTHER INFORMATION CONTACT: Mana L. Jennings, Office of the General Counsel, Washington, D.C. 20207; telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: Because of concern over an incident associated with an amusement ride known as Enterprise, the U.S. Consumer Product Safety Commission is alerting residents in the areas of West Palm Beach and Lakeland, Florida and in Valdosta, Georgia, of the operation of similar rides in those cities.

The CPSC is concerned about the continuing operation of those rides pending the completion of its investigation of the Dallas incident.

In the Dallas incident, one person was killed and a number of other individuals were injured when a gondola car became disloged and fell to the ground. The Commission is currently conducting a compelete disassembly and engineering analysis of that ride, a process that may take several weeks, and thus does not yet know the specific cause of the death and injuries. In addition, the company has pointed out that the Commission has not completed its investigation and evaluation of the safety of the Florida and Georgia rides.

The Enterprise ride contains 20 cars attached to sweep arms from a center boom. The ride starts out in a horizontal position and, while rotating, the ride is elevated and rotated to an almost vertical position. The ride, which is manufactured by Heinr.Wilhelm Huss & Co., located in the Federal Republic of Germany, is manufactured for both mobile and stationary use.

The Commission is aware of 61 deaths on amusement rides occurring from 1973 through 1981. Until the Dallas incident, the Commission was not aware of any deaths involving the Enterprise ride. CPSC estimated there are an average of seven deaths annually on all amusement rides—both fixed and mobile—nationwide

Twenty-two states have some type of legislation concerning amusement rides. Of these, three require only insurance inspections. The remaining 19 states have inspections conducted by state officials.

CPSC acts as a clearinghouse of injury information and ride incidents involving mobile rides in all states. CPSC investigates, as appropriate, mobile ride incidents.

Under section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)), there are restrictions on the Commission's authority to disclose information that will permit the public to ascertain readily the identity of a manufacturer (including importer) of a consumer product. The Commission must, to the extent practicable, notify and provide each manufacturer with a summary of such information and provide each manufacturer with a reasonable opportunity to submit comments to the Commission in regard to such information.

The Commission may not disclose such information less than 30 days after the above steps are taken, "unless the Commission finds that the public health and safety requires a lesser period of notice and publishes such a finding in the **Federal Register** * * *." The purpose of this notice is to announce that the Commission has made this finding with respect to the public disclosure of information concerning the Enterprise ride. Based on information developed during the course of its on-going investigation, the Commission found that the public health and safety required a one hour period of notice.

After providing the shortened notice to the manufacturer (importer) of the Enterprise ride, Heinr.Wilhelm Huss & Co., and Huss Trading Corp. of America, the Commission has disclosed to the public the information in the first seven paragraphs of this notice (immediately following **"SUPPLEMENTARY INFORMATION"**).

Dated: November 10, 1983.

Sadye E. Dunn,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 83-30862 Filed 11-14-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Supercomputer Applications; Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in open session on 21-22 December 1983 at the Rockefeller University, New York, New York.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 21-22 December 1983 the Task Force will conduct a review of the Defense Department's programs to apply the emerging capacity of computers to contribute to military

programs and issues. It will attempt to identify areas where the expected many orders of magnitude improvement in computing power can be of aid to the Defense establishment.

Persons interested in attending should contact Commander R. B. Ohlander, Task Force Executive Secretary. Telephone: (202) 699–5051. Space will be awarded on a first come first served basis.

Dated: November 8, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-30715 Filed 11-14-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Change of Operating Hours and Mailing Address for the Armed Forces Discharge Review/Correction Boards Reading Room

The Department of Defense, acting through the Director of the Department of the Army Military Review Boards Agency (DAMRBA) will change the operating hours and mailing address for the Armed Forces Discharge Review/Correction Boards Reading Room (AFDR/CB RR).

DoD Directive 1332.28, dated August 11, 1983 specifies that requests for DD Form 293, regulations of Military Departments, and correspondence relating to matters under the cognizance of the Reading Room should be mailed to the Reading Room. The appropriate address for such mailings is:

DA Military Review Boards Agency,
ATTN: SFRB–2 (RR), The Pentagon,
Washington, D.C. 20310.

Effective December 1, 1983 the Reading Room will be closed for thirty minutes for lunch. The new hours will be 8:00 AM–12:00 AM and 12:30 PM–4:00 PM. Arrangements may be made to have the Reading Room remain open through the lunch period by telephoning (202) 695–3973 at least 24 hours in advance.

Questions relating to Reading Room operations or policies should be directed to Ms. Carol Muskus of Maj Kenneth Grant, by telephoning (202) 692–4568 or by writing to the address shown above.

John O. Roach II,

DA Liaision Officer with the Federal Register.

[FR Doc. 83-30763 Filed 11-14-83; 8:45 am]

BILLING CODE 3710-08-M

vailability of Final Environmental npact Statement on Potential Impact From the Design, Construction, Operation and Decontamination of a Proposed Chemical Agent Disposal System on Johnston Atoll

1. *Description of the Action:* The Army is proposing to destroy obsolete and unserviceable agents and munitions presently stored at Johnston Atoll (Central Pacific Ocean) because they are deteriorating rapidly in the tropical salt air environment of the Atoll. Not only will the munitions and agents eventually require destruction, but postponing their destruction at Johnston Atoll will increase the costs and complexity of future disposal operations and will increase the risk of accidental release of agent with the inherent potential impact to personnel and the environment. The U.S. Army has studied the feasibility and desirability of the destruction of obsolete and unserviceable chemical agents and munitions presently stored in the Southwest quadrant of Johnston Island, Johnston Atoll. The proposed project will result in the removal of a potential hazard and the proposed design and management controls will be sufficient to avoid significant environmental effects.

2. A notice of intent to prepare an Environmental Impact Statement for the proposed facility was published in the **Federal Register** on February 25, 1983. A public scoping meeting, also announced in the Notice of Intent, was held in Honolulu, Hawaii on March 17, 1983 so that interested individuals and agencies could assist the Department of the Army in determining the significant issues related to the prosposed action. Issues identified at the Public scoping meeting and those expressed in writing to the Department of the Army were considered in the preparation of the Draft Environmental Impact Statement. The availability of the Draft EIS was announced in the **Federal Register** by the Department of the Army on 18 July 1983 and by the Environmental Protection Agency on July 22, 1983. The comment period for the Draft EIS closed on 6 September 1983.

3. Copies of the Final EIS may be obtained by writing to the U.S. Army Division Engineer, Pacific Ocean, Fort Shafter, HI 96858 or Commander, U.S. Army Toxic and Hazardous Materials Agency, ATTN: DRXTH–ES, Aberdeen Proving Ground, MD 21010.

Dated: November 9, 1983.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA(IL&FM).

[FR Doc. 83-30689 Filed 11-4-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Innovative Point Focusing Solar Concentrator; Availability of Program Opportunity

AGENCY: Department of Energy, Albuquerque Operations Office.

ACTION: Availability of Program Opportunity Notice for Innovative Point Focusing Solar Concentrator—PON Nr. DE–PN04–38AL23711.

SUMMARY: DOE intends to issue an unrestricted Program Opportunity Notice (PON) which will solicit proposals for the development of an innovative point focusing solar concentrator (hereinafter "concentrator"), which will provide significantly lower life-cycle costs than current designs when produced in large quantities. Issuance is planned for late November 1983.

Authority: DOE Organization Act, Pub. L. 95–91, 42 U.S.C. 7101; Federal Non-nuclear Energy Research and Development Act of 1974, Pub. L. 93–577, 42 U.S.C. 5901 et seq; DOE Financial Assistance Regulations, 10 CFR Part 600 Subparts A and C.

Scope of Demonstration: This activity is a part of the Solar Thermal Power System Project for Parabolic Dish Systems to develop technology for modular, two axis tracking solar systems for use in distributed receiver thermal and electric application. These concentrators are to be comatible with receivers, engines, power conversion and ancillary subsystems being developed under other contracts.

Phase I of the program will be to develop a design of a point focus concentrator. Phase II, if given DOE approval to proceed, includes the fabrication, installation and evaluation testing of a prototype unit. The concentrator is to be available for use with the evolving high efficiency power conversion assemblies expected to be available in 1985–1988. The projected long term mass production cost target goals for the concentrator are $105–$160 per kilowatt therm when produced in quantities of 10,000/year. DOE anticipates awarding two Cooperative Agreements, both to be completed through Phase II, subject to the availability of funds and DOE approval

of Phase II. The participants are expected to contribute financially to the effort, which is anticipated to commece in mid 1984 and be completed in 1986. DOE anticipates having $1,350,000 in FY 1984 funds available prior to award, with expectations for FY 1985 funding at $2,650,000.

It is requested that all parties wishing to receive a copy of the Program Opportunity Notice provide written notification of their interest to the below listed point of contact not later than twenty (20) days from the date of publication of this notice. Your request should reference PON Nr. DE–PN04–83AL23711. Telephone inquiries will not be accepted.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Albuquerque Operations Office, Contracts and Industrial Relations Division, ATTN: A. P. Baker, P.O. Box 5400, Albuquerque, NM 87115.

Issued in Washington, D.C. on November 8, 1983.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83-30784 Filed 11-14-83; 8:45 am]

BILLING CODE 6450-01-M

Compliance With the National Environmental Policy Act, Notice of Intent To Prepare an Environmental Impact Statement and To Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare an environmental impact statement (EIS) to assess the potential environmental impacts associated with construction and operation of a central waste disposal facility for disposal of low-level radioactive waste, as defined by the Nuclear Waste Policy Act of 1982, and byproduct material, as defined by the Atomic Energy Act of 1954, as amended, within the Oak Ridge Reservation, in the environs of Oak Ridge, Tennessee.

SUMMARY: The Department of Energy announces its intent to prepare an EIS in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), as amended, to assess the environmental implications of constructing and operating a new Central Waste Disposal Facility (CWDF) for low-level radioactive waste and byproduct material disposal within the Oak Ridge Reservation, in the environs of Oak Ridge, Tennessee. The new facility will be used for the disposal of unclassified solid low-level radioactive waste and byproduct material generated by normal activities of the three DOE plants; i.e., the Oak Ridge National Laboratory (ORNL), the Y–12 Production Plant (Y–12), and the Oak Ridge Gaseous Diffusion Plant (ORGDP). The purpose of the new facility is to provide for increased efficiency in and capacity for disposal of solid low-level radioactive waste and byproduct material generated by the Oak Ridge plants. The DOE plans to initiate construction of the CWDF in 1985 and begin operation of the facility during that year. Preparation of the EIS is intended to assure that potential environmental impacts associated with the construction and operation of the CWDF, its closure, and custodial care are properly addressed.

The DOE invites interested agencies, organizations, and the public to submit comments or suggestions for consideration in connection with the identification of the scope of the Draft EIS. Additionally, interested agencies, organizations, and the general public are also invited to attend a public scoping meeting to be held in Oak Ridge, Tennessee, on November 30, 1983, to assist DOE in identifying significant environmental issues associated with the development and implementation of plans to construct and operate the CWDF. Upon completion of the Draft EIS, notice of its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments received on the Draft EIS will be considered in preparing the Final EIS.

ADDRESS: Written comments or suggestions on the scope of the Draft EIS and requests to speak at the scoping meeting may be submitted to Doyle R. Brown, Program Manager, Nuclear Research and Development Division, U.S. Department of Energy, Post Office Box E, Oak Ridge, Tennessee 37831; (615) 576–4876.

General information on the process followed by DOE in preparing EIS's may be obtained from Dr. Robert J. Stern, Office of Environmental Compliance, U.S. Department of Energy, Room 4G–085, Forrestal Building, 1000 Independence Avenue SW, Washington, D.C. 20585, (202) 252–4600.

DATES: Written comments postmarked by December 10, 1983, will be considered in the preparation of the Draft EIS. Comments postmarked after that date will be considered to the maximum extent practicable. A scoping meeting will be held at the American Museum of Science and Energy at Oak Ridge, Tennessee, on November 30, 1983. Requests to speak at this meeting should be received by November 28, 1983.

SUPPLEMENTARY INFORMATION:

Background Information

The three plants located on the DOE Oak Ridge Reservation, the Oak Ridge National Laboratory (ORNL), the Y–12 Producton Plant (Y–12), and the Oak Ridge Gaseous Diffusion Plant (ORGDP), collectively generate approximately 300,000 ft^3/year of low-level radioactive waste and byproduct material, exclusive of decontamination and decommissioning activities. This waste is contaminated with small quantities of radioactive materials. The principal radionuclides that contribute to the total activity are ^{3}H, ^{137}Cs, ^{90}Sr, ^{99}Tc, ^{234}U, ^{235}U, and ^{232}Th. The waste originates from various research and development activities conducted at the three plants and from production operations conducted at Y–12 and ORGDP. Currently, low-level wastes generated at Y–12 and ORGDP are placed in an existing shallow land burial facility. This facility will be closed during 1984, since the site is not considered suitable for the disposal of additional radioactive waste. After this facility is closed, Y–12 and ORGDP low-level radioactive waste will be reduced in volume and stored until the CWDF is operational. Wastes from ORNL operations are placed in shallow-land burial at the ORNL (X–10) site. At current disposal rates, the ORNL site will be filled in six to eight years. To provide for future disposal capacity and increase the efficiency of disposal of low-level wastes generated at each of the three Oak Ridge plants, the DOE proposes to construct and operate the CWDF. It is estimated, at anticipated disposal rates, that the CWDF site can accept radioactive waste for at last 40 years.

The proposed site for the CWDF is an area of about 500 acres on West Chestnut Ridge, bounded by Bear Creek Road to the north, by Tennessee Highway 95 on the east, and by the New Zion Patrol Road to the south and west. The site is located along the uppermost elevations of the ridge, in a wooded area heretofore undeveloped except as farmland prior to conversion of the area to a Federal reservation.

The soils lie above the Knox Group geologic formation composed of dolomite and limestone. Under the proposed action, the low-level radioative wastes and byproduct materials would be buried in shallow trenches in the overburden layers, which are up to 100-feet thick over bedrock

and the water table. Several surface streams that have their headwaters in the site area drain into Bethel Valley and subsequently into the Clinch River, which flows south and west of the site.

Construction activities would consist of land clearing at the upper northeast section of the site in preparation for opening the initial trench. Access roads would be upgraded to provide all weather access to the initial disposal trench. Utilities for the site would be extended from existing sources.

Operations at the CWDF would involve the excavation of trenches, the emplacement of radioactive waste, closure of trenches, and the installation of any engineered barriers deemed to be necessary. Ground- and surface-water monitors installed during the preoperational phase would be used to detect any changes in water quality that might result from facility operation. Once disposal operations were completed in each area, the surface would be graded and seeded to control erosion. Monitoring activities would continue to detect any migration of radionuclides.

Preliminary Identification of Environmental Issues and Alternatives

The following issues have been identified for analysis in the EIS. This list is presented to facilitate public comments on the scope of the EIS and is not intended to be all inclusive, nor is it intended to be a predetermination of impacts.

1. The potential for exposure of the public and occupational work force to radiation during all phases of the operation of the CWDF;

2. The potential for exposure of the public to radiation during and following the institutional custodial care phase (100 years after closure) of monitoring the CWDF;

3. The environmental, safety and health effects of credible potential accidents and radioactive releases;

4. The nature and extent of the effects of physical and/or chemical leaching of materials contained in the trenches;

5. The effectiveness of various waste management procedures in retaining radionuclides within the disposal unit and buffer zone;

6. The impact of burial ground operations on ground- and surface-waters; and,

7. Volume reduction techniques, waste acceptance criteria, and mitigating measures.

DOE will consider reasonable alternatives to the proposed action, including:

(1) No action; i.e., cancellation of plans to construct and operate the CWDF.

(2) Utilization of a site(s) other than the West Chestnut Ridge site within the DOE Oak Ridge Reservation for the CWDF.

(3) Development of an above ground radioactive waste disposal facility, and

(4) Reliance on waste facilities at other DOE sites.

Comments and Scoping Meeting

All interested parties are invited to submit written comments or suggestions concerning the scope of issues that should be addressed in the Draft EIS and to attend a scoping meeting in which oral comments and suggestions will be received. Those desiring to submit written comments or suggestions should submit them to Doyle R. Brown at the address listed above no later than December 19, 1983. Those wishing to participate in the scoping process may also attend a public scoping meeting to be held at the American Museum of Science and Energy, Oak Ridge, Tennessee, on November 30, 1983, beginning at 7:00 p.m. Written and oral comments will be given equal consideration.

The DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as a evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the DOE with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. Those individuals desiring to make oral comments should mail their requests to Doyle R. Brown at the address listed above.

The DOE reserves the right to arrange the time and schedule of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE of their desire to speak by November 28, 1983. DOE will, in turn, notify prospective speakers before the meeting of the time and schedule for presentation. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments, if time permits. Depending on the number of speakers, DOE reserves the right to place time limits on the speakers.

2. If any speaker desires to provide further information for the record subsequent to the meeting, it must be submitted in writing by December 10, 1983, to Doyle R. Brown at the address listed above.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comment when it is issued should notify Doyle R. Brown at the address listed above.

When the Draft EIS is complete, its availability will be announced in the **Federal Register** and local news media, and comments again will be solicited.

A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW, Washington, D.C. 20585 between 8:00 and 4:00 p.m., Monday through Friday. Other locations where transcripts will be available are:

Department of Energy, Oak Ridge Operations Office, Public Document Room, 100 Administration Road, Oak Ridge, Tennessee 37831;

Oak Ridge Public Library, Civic Center, Oak Ridge Turnpike, Oak Ridge, Tennessee 37830;

Kingston Public Library, Community Center, Kingston, Tennessee 37763;

Clinton Public Library, 118 South Hicks Street, Clinton, Tennessee 37716; and

EPA Region IV, Public Reading Room, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

In addition, members of the public may also inspect, at the above addresses, documents containing background information on the proposed project.

Dated at Washington, D.C. this 9th day of November 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-30896 Filed 11-14-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-83-013; FC Case No. 63022-9231-21, 22, 23, 24-24]

Kern River Cogeneration Co.; Exemption From Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption to an electric powerplant, owned and operated by the Kern River Cogeneration Company, from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 USC 8301 *et seq.*) ("FUA" or "the Act"). The exemption granted permits the use of natural gas or petroleum as the primary energy source for the combined cycle facility located in Oildale, California.

The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order and its provisions shall take effect on January 16, 1984.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Ronald DeVries, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Bldg., Room GA-093, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6002

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Bldg., Room 6B-235, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: On April 25, 1983, the Getty Oil Company and the Southern California Edison Company ("the co-petitioners") filed a petition with ERA requesting a permanent cogeneration exemption for a proposed 300 megawatt electric powerplant from the prohibitions of Title II of FUA.[1] The proposed combined cycle unit would be capable of using natural gas or low sulfur oil as its primary energy source in the production of electricity and process stream.

The exemption request was filed jointly by the co-petitioners in anticipation of the formation of a partnership that would own and operate the cogenerator. The partnership agreement was executed on July 25, 1983, creating the Kern River Cogeneration Company (Kern River), a legal entity separate and distinct from the co-petitioners. Accordingly, in response to a request of October 3, 1983, from the co-petitioners, ERA amended the proceeding in this case to subrogate Kern River to the rights and responsibilities of the co-petitioners.

As it is expected that 67.0% to 100% of the net annual electric power generation of the cogenerator will be sold to the Southern California Edison Company for resale to its customers, the facility is an electric powerplant pursuant to 10 CFR § 500.2. (Any excess electric power not so sold will be sold to the Getty Oil Company, along with the entire steam production for use in enhanced oil recovery operations.)

The cogenerator will consist of four new gas-fired combustion turbine generators with the combined capability of producting 300 MW of electric power and approximately 1.8×10^6 pounds per hour of 80% quality process steam at approximately 800 psig and 520° F. The hot exhaust gases from each combustion turbine generator will flow to the respective heat recovery steam generator where the steam needed for thermally enhanced oil recovery is produced.

The facility will be located at the Kern River Field in Oildale, near Bakersfield, California.

Basis for Exemption Order

The permanent exemption granted by ERA to the cogenerator is based upon Kern River's certification, pursuant to section 212(c) of FUA and 10 CFR 503.37(a)(1), that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum and natural gas and an alternate fuel in the cogeneration facility is not feasible, as required under 10 CFR 503.9.

In addition to the exhibits containing the bases for the certification (as required by 10 CFR 503.37(c)), the co-petitioners also submitted an environmental impact analysis, as required under 10 CFR 503.13.

Procedural Requirements

In accordance with the procedural requirements of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to the powerplant in the **Federal Register** on July 13, 1983 (48 FR 32056), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. During this period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on August 29, 1983. No comments were received and no hearing was requested.

NEPA Compliance

After review of Kern River's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Kern River has satisfied the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1). Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Kern River to permit the use of natural gas or petroleum as the primary energy source for its new powerplant (cogenerator) to be located in Oildale, California.

The rights and responsibilities under this exemption shall accrue to and be binding upon the person or persons that, on the effective date of the order, own, lease, operate, or control the identified powerplant, and against any assignees or successors-in-interest, whether by lease, purchase, or otherwise, of such person(s).

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

[1] Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain new major fuel burning installations. Final rules setting forth criteria and procedures for petitioning exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). A revised final rule governing eligibility and evidentiary requirements for the cogeneration exemption was issued on June 25, 1982 (47 FR 29209 (July 6, 1982)).

Issued in Washington, D.C. on November 4, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-30782 Filed 11-14-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. RP73-77-022, et al.]

Alabama-Tennessee Natural Gas Company, et al.; Notice of Filing of Pipeline Refund Reports and Refund Plans

November 9, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 21, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Filing date	Company	Docket No.	Type filing
9/20/83	Alabama-Tennessee Natural Gas Co.	RP73-77-022	Report.
9/21/83	Natural Gas Pipeline Co. of America.	RP82-62-010, et al	Report.
10/17/83	Mississippi River Transmission Corp.	RP72-149-018	Report.
10/17/83	National Fuel Gas Supply Corp.	RP80-135-034	Report.
10/18/83	Distrigas of Massachusetts Corp.	RP79-23-013	Report.
10/26/83	Trunkline Gas Co	RP80-106-014	Report.
10/28/83	Colorado Interstate Gas Co.	RP72-122-017	Report.
10/31/83	Mid-Louisiana Gas Co.	RP82-116-002	Report.
11/1/83	Algonquin Gas Transmission Co.	RP72-110-033	Report.
11/3/83	Consolidated Gas Supply Corp.	RP72-157-068	Report.

[FR Doc. 83-30674 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2078-000]

Chauncey J. Mebderry; Notice of Application

November 9, 1983.

The filing individual submits the following:

Take notice that on November 2, 1983, Chauncey J. Medberrry filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director: CP National Corporation
Director: BankAmerica Corporation
Director: Bank of America National Trust and Savings Association

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before November 23, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30675 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP73-63-002]

Natural Gas Pipeline Company of America; Filing of Joint Petition of Natural Gas Pipeline Company of America and NAPECO, Inc. for Waiver of Condition

November 8, 1983.

Take notice that on October 21, 1983, Natural Gas Pipeline Company of America (Natural) and NAPECO Inc. (NAPECO), Pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, filed a petition for a waiver of the condition imposed by the Federal Power Commission in the above-captioned docket in Ordering Paragraph (F)(10) of the *Order Adopting Settlement Proposal, Authorizing Sale Of Gas At Applicable Area Rate, Authorizing Amendment Of Purchased Gas Adjustment Clause And Terminating Proceedings* Issued August 3, 1973 (hereinafter Called "the 1973 Order"), Redesignated Ordering Paragraph (F)(12) in the *Order Amending Order* Issued August 2, 1974 (hereinafter called "the 1974 Order"). This condition requires that all natural gas reserves discovered or acquired as a result of activities financed under the revolving exploration fund authorized in the above-captioned proceeding shall be dedicated to service for Natural's customers and taken into Natural's system by the most feasible means.

Ordering Paragraph (F)(10) of the 1973 order, redesignated Paragraph (F)(12) in the 1974 order, requires that "all natural gas reserves discovered or acquired as a result of the exploration activities financed under the revolving exploration fund shall be dedicated to service for Natural's customers, and taken into Natural's system by the most feasible means" (hereinafter called "customer dedication condition"). However, on May 31, 1978, Natural petitioned the Commission for a declaratory order that it was not required to connect certain marginally commercial wells which had been developed with monies from the revolving fund. Specifically, in three separate instances Natural had been unable to justify economically the connection of certain wells in which NAPECO had invested monies from the revolving fund, and instead had permitted NAPECO to sell the gas attributable to its interest in those wells to intrastate purchasers. NAPECO joined in that petition.

By order dated November 24, 1978, in the above-referenced proceeding the Commission granted that petition.

Natural and NAPECO state that they have recently become aware of a new situation involving marginally commercial reserves discovered through the expenditure of revolving fund monies. In June 1980, NAPECO farmed out approximately 66,000 acres in Concho and McCulloch Counties, Texas, which it had acquired through the revolving fund, to Mid-Texas Energy Inc. (Mid-Texas). Simultaneously, Mid-Texas entered into a gas purchase contract with Natural, dedicating the acreage to be earned by Mid-Texas under its farmout agreement with NAPECO to the performance of the contract. Mid-Texas earned assignments of a total of 640 acres under the farmout agreement, which NAPECO cancelled in April, 1982 for Mid-Texas' failure to develop the farmed-out acreage as agreed. The gas purchase contract with Natural remains in effect. BJH Energy, Inc. (BJH), the successor to all of Mid-Texas' interest in the farmed-out acreage, has tendered four wells which it has completed on the farmed-out acreage to Natural for connection to its system. They are the Shirley Doyal 86-1 Well, the Shirley Doyal 86-5 Well, the Doyal 86-6 Well, and the Shirley Doyal 86-3 Well, all in McCulloch County, Texas. The total

reserves attributable to these four wells is 84 MMcf, and the estimated combined initial daily deliverability from them is 603 Mcf per day.

Natural has determined that it cannot justify connecting the wells to its system, and that no feasible means exist for taking gas from the wells into its system. However, NAPECO has not authorized BJH to sell the gas from these wells attributable to its royalty interest to anyone else, and will not do so unless and until this petition is granted.

Mid-Texas also earned assignments of an additional 480 acres in McCulloch County, consisting of three other leases adjacent to the Doyal lease. The exploration wells which Mid-Texas drilled on these leases in order to obtain assignments of them are the Billie Bingham No. 1, the Wes Bratton A-2, and the H. C. Price No. 1. NAPECO has a 4.875% net overriding royalty interest in these wells, as it does in the wells on the Doyal lease. Natural is informed that no recoverable gas reserves have been discovered through these three wells. Thus, they have not been tendered to Natural for connection, and in all probability never will be. However, in the unlikely event that they should be tendered to Natural, Natural expects, for the same reasons set forth above in connection with the wells on the Doyal lease, that it will be infeasible and economically unjustifiable to attach them to its system. Therefore, in the interests of efficiency and administrative economy, Natural and NAPECO request that this petition cover these three wells in addition to the four on the Doyal lease.

Natural and NAPECO request that the Commission issue an order waiving the customer dedication condition of the 1973 and 1974 Orders in the above-referenced proceeding with respect to NAPECO's interests in the Shirley Doyal 86-1 Well, the Shirley Doyal 86-5 Well, the Doyal 86-6 Well, the Shirley Doyal 86-3 Well, the Billie Bingham No. 1 Well, the Wes Bratton A-2 Well, and the H. C. Price No. 1 Well.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 17, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30676 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-62-000]

New England Power Co.; Notice of Filing

November 9, 1983.

The filing Company submits the following:

Take notice that on November 1, 1983, New England Power Company (NEP) tendered for filing amendments to two Power Contracts between NEP and Massachusetts Municipal Wholesale Electric Company and the Town of Templeton Municipal Lighting Plant. The proposed effective date is January 1, 1984.

NEP states that the proposed amendment will increase the Rate for the sale of Unit Power from its coal-burning Salem Harbor Units 1, 2, and 3 from a settlement level of $152.38 per kw-yr. to $194.77 per kw-year, resulting in an annual increase in capacity charges of $587,420.

NEP states further that the proposed Rate is predicated in part upon NEP's W-6 filing made July 29, 1983. For this reason, NEP requests waiver of certain of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 23, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30667 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-65-000]

Pacific Power & Light Co.; Notice of Filing

November 9, 1983.

The filing Company submits the following:

Take notice that on November 1, 1983, Pacific Power & Light Company (PP&L) tendered for filing, PP&L's FERC Electric Tariff, Original Volume No. 4, with First Revised Sheet Nos. 5, 6, and 9, and the Exhibits necessary to include Montana Power & Light Company under Pacific's Service Schedule PPL-4.

PP&L requests an effective date of January 1, 1984.

Copies of this filing have been served upon the Public Service Commission of the State of Montana and the Montana Power & Light Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 23, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30678 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-63-000]

Southern Company Services, Inc.; Notice of Filing

November 9, 1983.

The filing Company submits the following:

Take notice that on November 1, 1983, Southern Company Services, Inc., on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company, tendered for filing the Southern Company Intercompany Interchange Contract, together with an Allocation Methodology and Periodic Rate Computation Manual showing the basis for interchange and pooling transactions between such companies. The filing also includes informational schedules which detail the charges and

derivation of components of the rates to be used during the calendar year 1984.

The new Southern Company System Intercompany Interchange Contract constitutes a coordination and interchange agreement between the operating companies of the Southern Company system. The Contract provides for certain power pooling transactions, including exchange of interchange energy and the pricing thereof, the purchase and sale of capacity and the rates and charges thereof, as well as other interchange arrangements between the operating companies.

The company requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 23, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30679 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-64-000]

Virginia Electric and Power Co.; Notice of Filing

November 9, 1983.

The filing Company submits the following:

Take notice that on November 1, 1983, Virginia Electric and Power Company (VEPCO) tendered for filing a proposed Agreement for the Purchase of Electricity for Resale between VEPCO and North Carolina Electric Membership Corporation (NCEMC). Such Agreement would supersede individual contracts VEPCO now has with Albemarle Electric Membership Corporation, Cape Hatteras Electric Membership Corporation, Edgecombe-Martin County Electric Membership Corporation, Halifax Electric Membership Corporation, Roanoke Electric Membership Corporation and Tideland Electric Membership Corporation.

VEPCO requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing has been served upon VEPCO's distribution cooperative customers in North Carolina, NCEMC, the North Carolina Utilities Commission and the Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 23, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30680 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

Hearings and Appeals Office

Cases Filed; Week of October 7 Through October 14, 1983

During the Week of October 7 through October 14, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted form earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 1, 1983.

[Week of Oct. 7 Through Oct. 14, 1983]

DATE	Name and location of applicant	Case No.	Type of submission
Oct. 4, 1983	Getty Oil Comapny, Washington, D.C.	HRZ-0173	Interlocutory Order. If granted: The September 20, 1983, Decision and Order (Case No. HRZ-0167) issued to the Economic Regulatory Administration and Getty Oil Company would be withdrawn a a result of an opinion issued by the United States District Court for the District of Delaware.
Oct. 11, 1983	Lone Star Oil & Chemical & Michael A. McAlister, San Antonio, Texas.	HRH-0185, HRD-0185	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Lone Star Oil and Chemical Company and Michael A. McAlister in response to the July 15, 1983 Proposed Remedial Order (Case No: HRO-0185) issued to Lone Star Oil and Chemical Company.
Oct. 12, 1983	Vector Corporation, Pittsburgh, Pennsylvania	HFA-0189	Appeal of an Information Request Denial. If granted: The September 12, 1983, Freedom of Information Request Denial issued by the Office for Naval Reactors would be rescinded, and Vector Corporation would receive access to certain DOE information.
Oct. 13 ,1983	Economic Regulatory Administration		Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R. Part 205, Subpart V, in connection with the Economic Regulatory Administration's petition regarding Consent Orders, Remedial Orders and Court Decisions involving the 453 companies as listed below.

Case No. and Company Name

HEF-0027—Amtel Inc.
HEF-0028—Applachian Flying Service Inc.
HEF-0029—Arkansas Valley Petroleum
HEF-0030—Arkla Chemical Corp.
HEF-0031—Armour Oil Corp.
HEF-0032—Aztec Energy Corp.
HEF-0033—E.M. Bailey Distributing Co. Inc.
HEF-0034—Bak Ltd
HEF-0035—Bayside Fuel Oil Depot Corp.
HEF-0036—Big Bend Truck Plaza

HEF-0037—Blaylock Oil Co. Inc.
HEF-0038—Blex Oil Corp.
HEF-0039—Bob's Oil Corp.
HEF-0040—The Boswell Oil Co.
HEF-0041—Box, Cloyce K.
HEF-0042—Brown Oil Co.
HEF-0043—Bucks Butane & Propane Service Inc.
HEF-0044—Budget Airport Associates Inc.
HEF-0045—Busler Enterprises Inc.
HEF-0046—Butler Petroleum Corp.
HEF-0047—Central Oil Co. Inc.
HEF-0048—Champlain Oil Co. Inc.
HEF-0049—Cibro Gasoline Corp.
HEF-0050—City Service Inc.
HEF-0051—Collins Oil Co.
HEF-0052—Columbia Oil Co.
HEF-0053—Conlo Service Inc.
HEF-0054—Consolidated Leasing Corp.
HEF-0055—Consumersoil Co.
HEF-0056—Cosby Oil Co. Inc.
HEF-0057—Cougar Oil Inc.
HEF-0058—Cross Oil Co. Inc. et. al
HEF-0059—Crystal Petroleum Co.
HEF-0060—Dalco Petroleum Co.
HEF-0061—Desertaire Oil & Gas Co.
HEF-0062—J. E. Dewitt Inc.
HEF-0063—C. C. Dillion Co.
HEF-0064—E. B. Lynn Oil Co.
HEF-0065—Eastern of New Jersey Inc.
HEF-0066—Eastern Petroleum Corp.
HEF-0067—Elm City Fillings Stations Inc.
HEF-0068—Empire Oil Co.
HEF-0069—Endicott Eugene
HEF-0070—Enterprise Oil & Gas Co.
HEF-0071—Field Oil Co. Inc.
HEF-0072—Fine Petroleum Co. Inc.
HEF-0073—FKG Oil Co.
HEF-0074—F. O. Fletcher Inc.
HEF-0075—Foster Oil Co.
HEF-0076—Zia Fuels
HEF-0077—Gate Petroleum Co. Inc.
HEF-0078—General Equities Inc.
HEF-0079—Gibbs Industries Inc.
HEF-0080—Glaser Gas Inc.
HEF-0081—Glover Lawrence H.
HEF-0082—Goodman Oil Company
HEF-0083—Grand Rent A Car Corp.
HEF-0084—Gull Industries
HEF-0085—Gull Industries Inc.
HEF-0086—Gull Industries Inc.
HEF-0087—Harris Enterprises Inc.
HEF-0088—Heller Glenn Martin
HEF-0089—Hendels Inc.
HEF-0090—The Hertz Corp.
HEF-0091—Hicks Oil & Hicks Gas Co. Inc.
HEF-0092—Hines Oil Co.
HEF-0093—Ideal Gas Co. Inc.
HEF-0094—Independent Oil/Tire Co. Inc.
HEF-0095—Indian Oil Co. Inc.
HEF-0096—Inland USA, Inc.
HEF-0097—Inman Oil Co.
HEF-0098—J.A.L. Oil Co. Inc.
HEF-0099—James Petroleum Corp.
HEF-0100—St. James Resources Corp.
HEF-0101—Jay Oil Co.
HEF-0102—Jimmys Gas Stations Inc.
HEF-0103—Keller Oil Company Inc.
HEF-0104—Kenny Larson Oil Co. Inc.
HEF-0105—Key Oil Co. Inc.
HEF-0106—Key Oil Company
HEF-0107—Kiesel Co.
HEF-0108—King & King Enterprises
HEF-0109—Kingston Oil Supply Corp.
HEF-0110—Marlen L. Knutson Dist. Inc.
HEF-0111—L & L Oil Co. Inc.
HEF-0112—Lakes Gas Co. Inc.
HEF-0113—Leathers Oil Co. Inc.
HEF-0114—Leo's-Winstead's Inc.
HEF-0115—H. C. Lewis Oil Co.
HEF-0116—Lincoln Land Oil Co.
HEF-0117—Lockheed Air Terminal Inc.
HEF-0118—Lowe Oil Company
HEF-0119—Lucia Lodge Arco
HEF-0120—Luke Brothers Inc.
HEF-0121—Malco Industries Inc.
HEF-0122—Marine Petroleum Co.
HEF-0123—Martin Oil Service Inc.
HEF-0124— Martin Oil Company
HEF-0125—Maxwell Oil Co.
HEF-0126—McCarty Oil Co.
HEF-0127—McCleary Oil Co. Inc.
HEF-0128—McClure's Service Station
HEF-0129—Midway Oil Co.
HEF-0130—Midwest Industrial Fuels Inc.
HEF-0131—Missouri Terminal Oil Co.
HEF-0132—Moore Terminal and Barge Co. Inc.
HEF-0133—Moyle Petroleum Co.
HEF-0134—Naphsol Refining Company
HEF-0135—National Propane Corp.
HEF-0136—Nielson Oil & Propane Inc.
HEF-0137—Northeast Petroleum Industries Inc.
HEF-0138—Northeast Petroleum Industries Inc.
HEF-0139—Northeastern Oil Co. Inc.
HEF-0140—Northern Oil Co. Inc. & Bray Co. Inc.
HEF-0141—O'Connell Oil Co.
HEF-0142—Ocenana Terminal Corp. et. al
HEF-0143—Pacer Oil Co. of Florida Inc.
HEF-0144—Pacific Northern Oil
HEF-0145—Parman Oil Corp.
HEF-0146—Pasco Petroleum Co, Inc.
HEF-0147—Pedersen Oil Inc.
HEF-0148—Perta Oil Marketing Corp.
HEF-0149—Peterson Petroleum Inc.
HEF-0150—Petroleum Heat & Power Co. Inc.
HEF-0151—Petroleum Sales/Service Inc.
HEF-0152—Point Landing Inc.
HEF-0153—Port Oil Company Inc.
HEF-0154—Post Petroleum Co.
HEF-0155—Power Pak Co. Inc.
HEF-0156—Propane Gas & Appliance Co.
HEF-0157—Pyrofax Gas Co.
HEF-0158—Quarles Petroleum Inc.
HEF-0159—Ramos Oil Co. Inc.
HEF-0160—Ranchers Oil Co.
HEF-0161—L. P. Rech Distributing, Co.
HEF-0162—Red Triangle Oil Co.
HEF-0163—Reinhard Dist. Inc.
HEF-0164—Reynolds Oil Co.
HEF-0165—Richards Oil Co.
HEF-0166—Richardson Ayers Jobber Inc.
HEF-0167—Roberts Oil Co. Inc.
HEF-0168—Rookwood Oil Terminals Inc.
HEF-0169—Ropet Inc.
HEF-0170—Sanesco Oil Co.
HEF-0171—Schroeder Oil Company
HEF-0172—C. K. Smith & Co. Inc.
HEF-0173—Speedway Petroleum Co. Inc.
HEF-0174—Stinnes Inter Oil Inc.
HEF-0175—Swifty Oil Company Inc.
HEF-0176—Joc Oil Inc.
HEF-0177—A. Tarricone Inc.
HEF-0178—R. V. Whitner Thermogas Co.
HEF-0179—Thompson Oil Inc.
HEF-0180—Tiger Oil Co.
HEF-0181—Tippins Oil & Gas Co.
HEF-0182—Dollar Rent-A-Car
HEF-0183—Truckstops Corp. Of America
HEF-0184—Turco's 129 Exon and Truco's Shell
HEF-0185—U.S. Oil Co.
HEF-0186—United Oil Company
HEF-0187—United Petroleum Inc.
HEF-0188—U S. Compressed Gas Co.
HEF-0189—Vangas Inc.
HEF-0190—Wallace & Wallace Fuel Oil Co.
HEF-0191—Waller Petroleum Co. Inc.
HEF-0192—Warren Holding Co.
HEF-0193—Warren Oil Co.
HEF-0194—Webco Southern Oil Inc.
HEF-0195—Webster Oil Co. Inc.
HEF-0096—White Petroleum Inc.
HEF-0197—Willis Distributing Co.
HEF-0198—Windham Gas & Oil Co.
HEF-0199—Wisconsin Industrial Fuel Oil Inc.
HEF-0200—Allied Materials Corp. & Excel
HEF-0201—Arkansas Louisiana Gas Co.
HEF-0202—Bayou State Oil/IDA Gasoline Co.
HEF-0203—Beacon Oil Co.
HEF-0204—Crystal Oil Co.
HEF-0205—Earth Resources Co.
HEF-0206—Eddy Refining Co./Key Oil Inc.
HEF-0207—Evangeline Refining Co. Inc.
HEF-0208—Franks Petroleum Inc.
HEF-0209—Getty Oil Co.
HEF-0210—L. A. Gloria Oil and Gas Co.
HEF-0211—Good Hope Refineries Inc.
HEF-0212—Howell Corp
HEF-0213—Husky Oil Company
HEF-0214—Lakeside & Refining Co./Crystal Refining Co.
HEF-0215—Little America Refining co.
HEF-0216—Marion Corp.
HEF-0217—Navajo Refining Co.
HEF-0218—Pride Refining Inc.
HEF-0219—Quaker State Oil
HEF-0220—Saber Energy Inc.
HEF-0221—Seminole Refining Inc.
HEF-0222—South Hampton Refining
HEF-0223—Southern Union Co.
HEF-0224—Union Texas Petroleum Corp.
HEF-0225—VSG Corporation
HEF-0226—Warrior Asphalt Co. of Alabama Inc.
HEF-0227—Witco Chemical Corp.
HEF-0228—Young Refining Corp.
HEF-0229—Aminoil USA Inc.
HEF-0230—Apache Corporation
HEF-0231—Arapaho Petroleum Inc.
HEF-0232—Associated Programs Inc.
HEF-0233—Alanta Petroleum Production Inc.
HEF-0234—Belridge Oil Co.
HEF-0235—Breckenridge Gasoline Co.
HEF-0236—Cap Oil Co.
HEF-0237—Chapman H.A.
HEF-0238—Consolidated Gas Suply Corp.
HEF-0239—Continential Resources Co.
HEF-0240—Adolph Coors Co.
HEF-0241—Crystal Oil Co.
HEF-0242—Devon Corp.
HEF-0243—Eagle Petroleum Co.
HEF-0244—Enserch Corp.
HEF-0245—Gary Energy Corp.
HEF-0246—Gas Systems Inc.
HEF-0247—Grimes Gasoline Co.
HEF-0248—Gulf Energy & Development Corp.
HEF-0249—Hamilton Brothers Petroleum Corp.
HEF-0250—Horner & Smith (A Partnership)
HEF-0251—Houston Natural Gas Corp.
HEF-0252—J. M. Huber Corp.
HEF-0253—Hunt Industries

HEF-0254—Hunt Petroleum Corp.
HEF-0255—Internorth Inc.
HEF-0256—Kansas-Nebraska Natural Gas Co.
HEF-0257—Kansas-Nebraska Natural Gas Oc.
HEF-0258—Mapco Inc.
HEF-0259—MESA Petroleum Co.
HEF-0260—Mississippi River Transmission
HEF-0261—Mitchell Energy Corp.
HEF-0262—Montana Power Co.
HEF-0263—Mountain Fuel & Supply Company
HEF-0264—Northwest Pipeline Corp.
HEF-0265—Panhandle Eastern Pipeline Co.
HEF-0266—Peoples Energy Corp.
HEF-0267—Petro-Lewis Corp.
HEF-0268—Petro-Lewis Corp.
HEF-0269—Petrolane-Lomita Gasoline Co.
HEF-0270—Pioneer Corp.
HEF-0271—Planet Engineers Inc.
HEF-0272—Plateau Inc.
HEF-0273—Pronto Gas Co.
HEF-0274—Texas Gas & Exploration
HEF-0275—Texas Oil & Gas Corporation
HEF-0276—Texas Pacific Oil Co. Inc.
HEF-0277—Tipperary Corp.
HEF-0278—Armour Oil Company
HEF-0279—A. L. Barton
HEF-0280—Big-Tex Crude Oil Co.
HEF-0281—Cajun Energy Inc.
HEF-0282—Coffield Pipeline Co.
HEF-0283—Adolph Coors Co.
HEF-0284—D. A. Vinci Co. Inc.
HEF-0285—Encorp. Inc.
HEF-0286—Engle Enterpriser Inc.
HEF-0287—Geer Tank Trucks Inc.
HEF-0288—Gonsoulin Energy Corp.
HEF-0289—Gray Trucking Co.
HEF-0290—Independent Oil Producers Agency
HEF-0291—Inland Crude Purchasing Corp.
HEF-0292—Kenneth Walker
HEF-0293—Kimco Petroleum Inc.
HEF-0294—R. Lacy Inc.
HEF-0295—Langham Petroleum & Development
HEF-0296—Robert Stephen Langham Inc.
HEF-0297—Mid-Plains Petroleum Co.
HEF-0298—Mustang Fuel Corp.
HEF-0299—Northeast Pet. Industries
HEF-0300—NRG Oil
HEF-0301—Oilco
HEF-0302—Osage Oil & Transportation Inc.
HEF-0303—Petroleum Consulting Services
HEF-0304—Petrominerals Corp.
HEF-0305—Ryder Truck Rental Inc.
HEF-0306—Santa Fe Energy Products Co.
HEF-0307—Secor Petroleum Co. Inc.
HEF-0308—Southern Union Refining Co./ Midland-LEA, Inc.
HEF-0309—Tauber Oil Company
HEF-0310—Texas American Petrochemicals Inc.
HEF-0311—Txo Oil Company
HEF-0312—Venture Trading Company
HEF-0313—Adco Producing Co. Inc.
HEF-0314—Alpar Resources Inc.
HEF-0315—Amax Petroleum Corp.
HEF-0316—American Pacific International Inc.
HEF-0317—Aminoil USA Inc.
HEF-0318—Atlantic Oil Co.
HEF-0319—Atlantic Oil Corp.
HEF-0320—Axis Petroleum Co.
HEF-0321—B & M Operating Co. Inc.
HEF-0322—Barnhart
HEF-0323—Bass Enterprises Production Co.
HEF-0324—Murphy H Baxter
HEF-0325—Belco Petroleum Corp.
HEF-0326—Berg, Laney & Brown
HEF-0327—Bettis, Boyle & Stovall
HEF-0328—Beverly Hills Oil Co.
HEF-0329—Biglane Operating Co.
HEF-0330—Big Six Drilling Co.
HEF-0331—Blackwood & Nichols Co. Ltd.
HEF-0332—Bock & Bacon
HEF-0333—Bolin Oil Co.
HEF-0334—Al Brown Oil Operator
HEF-0335—F. M. Buxton
HEF-0336—C & K Petroleum Inc.
HEF-0337—C. N. Operating Company
HEF-0338—Caukins Oil Co
HEF-0339—Centura Inc.
HEF-0340—Century Oil Management Inc.
HEF-0341—Claire-Benz-Stoddard
HEF-0342—Cobra Oil & Gas Corp.
HEF-0343—Commanche Oil Co.
HEF-0344—Cooper & Brain Inc. Robert E. Brain
HEF-0345—Jimcox Oil Co.
HEF-0346—Culpepper Oil Co.
HEF-0347—Decalta International Inc.
HEF-0348—Depco Inc.
HEF-0349—Chester F. Dolley
HEF-0350—John Franks, Don H. Duggan
HEF-0351—E. Dunlap Jr.
HEF-0352—Edwards Producing Co. Inc.
HEF-0353—El Paso Natural Gas Co.
HEF-0354—Energy Acquisition
HEF-0355—Energy Development of Calif. Inc.
HEF-0356—Energy Services Inc.
HEF-0357—Equipment Inc.
HEF-0358—Exchange Oil & Gas Corp.
HEF-0359—Farmers Union Central Exchange Inc.
HEF-0360—Ferguson Oil Co.
HEF-0361—Florida Gas Exploration Co.
HEF-0362—Bill Forney Inc.
HEF-0363—John Franks
HEF-0364—Freeport Minerals Co.
HEF-0365—General Exploration Co.
HEF-0366—Grace Petroleum Corp.
HEF-0367—Curtis Hankamer
HEF-0368—Hanover Mgmt. Co.
HEF-0369—James W. Harris Production Co.
HEF-0370—Hassie Hunt Exploration Co.
HEF-0371—Hawn Brothers
HEF-0372—Hawthorne Oil & Gas Corporation
HEF-0373—Hewitt & Dougherty
HEF-0374—HNG Oil Company
HEF-0375—Hollingsworth & Associates
HEF-0376—Houston Oil & Minerals Corp.
HEF-0377—Howell Drilling Inc.
HEF-0378—Hudson & Hudson
HEF-0379—Ray M. Huffington Inc.
HEF-0380—Hunt Oil Co.
HEF-0381—D. H. Hunt
HEF-0382—William Hurbert Hunt Trust Estate
HEF-0383—J. W. Oil Co.
HEF-0384—E. Lyle Johnson
HEF-0385—Lenoir M. Josey Inc.
HEF-0386—Karchmer Pipe & Supply Co. Inc.
HEF-0387—Kirbark Operating Co.
HEF-0388—Kirkpatrick Oil & Gas Co.
HEF-0389—R. Lacy Inc.
HEF-0390—Lebsack Oil Production Inc.
HEF-0391—W. W. Lindsey N. E. & Elliot
HEF-0392—Lobo Oil Corporation
HEF-0393—Herman & Loeb
HEF-0394—Lyons Petroleum Inc.
HEF-0395—Art Machin & Assoc.
HEF-0396—Mackellar Inc.
HEF-0397—Marshall Pipe and Supply Co.
HEF-0398—MCBO Oil Company
HEF-0399—McCormick Oil & Gas Corp.
HEF-0400—Meason Optg. Co.
HEF-0401—Bruck Mertz
HEF-0402—MESA Petroleum Co.
HEF-0403—William Mitchell
HEF-0404—Moncrief W. A. Jr.
HEF-0405—Moore & Miller
HEF-0406—Mosbacher Production Co.
HEF-0407—Mosbacher Production Company
HEF-0408—Mountain Fuel Supply Co.
HEF-0409—National Cooperative Refinery Assn.
HEF-0410—NFC Petroleum Corporation
HEF-0411—Nielson Enterprises Inc.
HEF-0412—North Central Oil Corp.
HEF-0413—Northeast Nat. Gas Co.
HEF-0414—Oil California Exploration Inc.
HEF-0415—Robert E. Park
HEF-0416—Pauley Petroleum Inc.
HEF-0417—Pawnee Petroleum Corp.
HEF-0418—Payne Inc.
HEF-0419—Payne-Johnson & Byars
HEF-0420—Petroleum Corp. of Texas
HEF-0421—Phillips Oil Operating Co.
HEF-0422—B. F. Phillips Jr.
HEF-0423—Estate of Loyce Phillips
HEF-0424—Prudential Drilling Co.
HEF-0425—Riddle Oil Co.
HEF-0426—Roark & Hooker
HEF-0427—Robinson Energy Corp.
HEF-0428—Hubert Rose
HEF-0429—Ross Production Co.
HEF-0430—Rupe Oil Company Inc.
HEF-0431—Ronald E. Sater
HEF-0432—Earl W. Sauder
HEF-0433—Search Drilling Co.
HEF-0434—Shenandoah Oil Corp.
HEF-0435—R. H. Siegrfried Inc.
HEF-0436—Sierra Petroleum Co.
HEF-0437—Signal Petroleum
HEF-0438—Southland Drilling & Production
HEF-0439—Stevens Oil Co.
HEF-0440—Sundance Oil Company
HEF-0441—Superior Oil Co.
HEF-0442—Texas Oil & Gas Corp.
HEF-0443—Texas Recovert Co.
HEF-0444—Texland Petroleum
HEF-0445—Toco Corp.
HEF-0446—Todd & Saunders Inc.
HEF-0447—Transpac Petroleum Inc.
HEF-0448—Travlers Oil Co.
HEF-0449—Twin Montana Inc.
HEF-0450—Twin Montana Inc.
HEF-0451—Vallecitos Oil Co.
HEF-0452—James M. Van Hoen Operator
HEF-0453—Varn Petroleum Co.
HEF-0454—Virginia Dare Oil Company
HEF-0455—Wadsworth Oil Co.
HEF-0456—Earl E. Wall
HEF-0457—Westates Petroleum Co. Liquidation
HEF-0458—Western Avenue Properties
HEF-0459—Williams Exploration
HEF-0460—Wilshire Oil Co. of Texas
HEF-0461—Windfohr Oil
HEF-0462—Dalton J. Woods
HEF-0463—Arizona Fuel Corp.
HEF-0464—Cross Oil & Refining Co. of Arkansas
HEF-0465—Diamond Shamrock Corp.
HEF-0466—Earth Resources
HEF-0467—Eddy Refining Co.
HEF-0468—Elm City Filling Stations

HEF-0469—Fletcher Oil & Refining Co. Inc.
HEF-0470—Golden Eagle Oil Co.
HEF-0471—Guam Oil & Refining Co.
HEF-0472—A. Johnson and Co. Inc.
HEF-0473—Lunday-Thargard Oil Co.
HEF-0474—Mallard Resources Inc.
HEF-0475—Marion Corp.
HEF-0476—Nevada Refining Co.
HEF-0477—OKC Corporation
HEF-0478—Oxnard Refining Co.
HEF-0479—Seminole Refining Inc.

REFUND APPLICATIONS RECEIVED

[Week of Oct. 7 to Oct. 14, 1983]

Date and name of refund proceeding, name of refund applicant	Case No.
10/12/83 Sid Richardson/Siouxland Propane Company.	RF26-11
10/14/83 Amoco/Ronnie's Service Station Garage.	RF21-12215
10/14/83 Amoco/Shipley-Humble, Inc	RF21-12216

[FR Doc. 83-30780 Filed 11-14-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Projects Nos. 7672-000, et al.]

Hydroelectric Applications (WP, Incorporated, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. Type of Application: Preliminary Permit.
b. Project No: 7672-000.
c. Date Filed: October 3, 1983.
d. Applicant: WP, Incorporated.
e. Name of Project: Canyon Creek.
f. Location: On Canyon Creek, in Pierce County, near the town of Enumclaw, Washington.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.
i. Comment Date: January 13, 1984.
j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete gravity diversion dam located at elevation 2,570 feet, (2) a 26-inch-diameter, 5,800-foot-long low pressure conveyance pipe; (3) a 10-foot-diameter, 60-foot-high surge tank at elevation 2,520 feet; (4) a 20-inch-diameter, 3,170-foot-long penstock; (5) a powerhouse containing a single generator with a rated capacity of 1,960 kW and an average annual energy production of 6.87 GWh; (6) a switchyard; and (7) a 4.8-mile-long, 230-kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $90,000.

k. Purpose of Project: Power may be marketed to the City of Tacoma, Seattle City Light Company, or Puget Power and Light Company.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

2a. Type of Application: Constructed Major License (Under 5 MW).
b. Project No: 7387-000.
c. Date Filed: June 21, 1983.
d. Applicant: Niagara Mohawk Power Corporation.
e. Name of Project: Piercefield.
f. Location: On the Raquette River in the Town of Piercefield, St. Lawrence County, and in the Town of Altamont, Franklin County, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
h. Contact Person: John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202.
i. Comment Date: January 13, 1984.
j. Descripton of Project: The existing run-of-river project consists of: (1) A dam in five sections comprising: (a) A 360-foot-long 10-foot-high earthen dike along the right (north) bank; (b) a 62.5-foot-long concrete sluice structure; (c) a 70-foot-long 20-foot-high earthen dike having a concrete core wall; (d) a 118-foot-long stanchion-type stop-log spillway; and (e) a 294-foot-long 22-foot-high concrete spillway with crest elevation 1540.0 feet m.s.l. surmounted by 2-foot flashboards; (2) a 140-foot-long 45-foot-wide 17-foot-deep concrete and masonry forebay structure at the left bank having a sluiceway; (3) a reservoir (Piercefield Flow) having a surface area of 370 acres and a net storage capacity of 370 acre-foot at normal pool elevation 1542.0 feet m.s.l.; (4) a powerhouse containing three generating units having a total rated capacity of 2,700-kW operated under a 34.5-foot head and at a flow of 1,440 cfs; and (5) appurtenant facilities.
k. Purpose of Project: Project energy is used by Applicant to serve its customers within its franchise area. Applicant estimates the annual generation averages 15,713,000 kWh.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

3a. Type of Application: Preliminary Permit.
b. Project No: 7658-000.
c. Date Filed: September 27, 1983.
d. Applicant: WP, Incorporated.
e. Name of Project: Cedar Creek Water Power Project.
f. Location: On Cedar Creek, tributary of the Lewis River, near the town of Yacolt in Clark County, Washington.
g. Filed Pursuant to: Federal Power Act U.S.C. 16 791(a)-825(r).
h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.
i. Comment Date: January 13, 1984.
j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 1,530 feet; (3) a 5,200-foot-long, 32-inch-diameter pipeline from the diversion dam to a surge tank; (4) a 55-foot-high-diameter surge tank at elevation 1,480 feet; (5) an 8,000-foot-long, 26-inch-diameter penstock from the surge tank to the powerhouse; (6) a powerhouse with a single generating unit with a capacity of 1,220 kW; (7) a switchyard; and (8) a 2.0-mile-long; 115-kV transmission line. The average annual energy production would be 4,255,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and evironmental feasibility studies and prepare an FERC license application at a cost of $100,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to the Clark County, P.U.D.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

4a. Type of Application: Preliminary Permit.
b. Project No: 7681-000.
c. Date Filed: October 3, 1983.
d. Applicant: Licking River Associates.
e. Name of Project: Cave Run Lake Hydro Project.
f. Location: On the Licking River in Bath and Rowan Counties, Kentucky.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
h. Contact Person: Joel Rector, Esq., 4832 Colony Circle, Salt Lake City, Utah 84117.
i. Comment Date: January 23, 1984.
j. Description of Project: The proposed project would utilize the U.S. Army

Corps of Engineers' Cave Run Lake Dam and Reservoir, and would consist of: (1) A new steel 15-foot-diameter penstock; (2) a new powerhouse located on the north side of the existing stilling basin; (3) a new transmission line; and (4) appurtenant facilities. Applicant estimates the total installed capacity of the project to be 15 MW, and the average annual generation to be 36.6 GWh. All energy produced would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit: Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $125,000.

m. Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

5a. Type of Application: Preliminary Permit.

c. Project No: 7673–000.

c. Date Filed: October 3, 1983.

d.Applicant: WP, Incorporated.

e. Name of Project: Jorsted Creek.

f. Location: On Jorsted Creek, near the town of Eldon, in Mason County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: January 23, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion dam at elevation 510 feet; (2) a 30-inch-diameter, 6,250-foot-long low pressure conveyance pipe; (3) a 10-foot-diameter, 40-foot-high surge tank at elevation 475 feet; (4) a 24-inch-diameter, 5,700-foot-long penstock; (5) a powerhouse containing a single generator with a rated capacity of 590 kW and an estimated annual energy production of 2.06 GWh; (6) a switch yard; and (7) a .3-mile-long, 115–kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $80,000 to $100,000.

k. Purpose of Project: Power may be marketed to the Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

6a. Type of Application: Preliminary Permit.

b. Project No: 7472–000.

c. Date Filed: July 29, 1983.

d. Applicant: Trenton Falls Hydroelectric Company.

e. Name of Project: North Elba Project.

f. Location: On the Chubb River, in Essex County, in the Village of Lake Placid, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred T. Samel, P.O. Box 169, Prospect, New York 13435.

i. Comment Date: January 13, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam, about 20 feet high and 136 feet long; (2) an existing concrete gatehouse, located at the north abutment of the dam and which controls discharge to the penstock; (3) a reservoir with an estimated storage capacity of 100 acre-feet at water elevation of 1,706.0 MSL; (4) approximately 800 feet of existing steel penstock with a diameter of 5 feet, 4 inches; (5) an existing powerhouse structure approximately 30 feet by 40 feet, to be retrofitted to house one new generator with an installed capacity of 250 kW; (6) an existing tailrace; (7) a new switchyard; (8) a proposed 13.2–kV transmission line, approximately 100 feet long; and (9) appurtenant facilities. Applicant estimates that the average annual generation would be 820,000 kWh. The owner of the dam is the Village of Lake Placid, New York.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Village of Lake Placid Municipal Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform studies and would prepare an application for an FERC license or exemption. Applicant estimates the cost of the work under the permit would be $49,500.

a. Type of Application: Preliminary Permit.

b. Project No: 7665–000.

c. Date Filed: September 30, 1983.

d. Applicant: Cairo/New York Associates.

e. Name of Project: Woodstock Dam. No. 1106.

f. Location: On Catskill Creek, in Green County, near Cairo, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jowl Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: January 12, 1984.

j. Description of Project: The project would consist of: (1) An existing breached concrete dam with overall length of approximately 240 feet, which includes an overflow spillway section about 150 feet wide and 32 feet high; (2) a proposed reservoir with an estimated storage capacity of about 370 acre-feet, and a normal maximum water surface elevation estimated at 328 feet MSL (with flashboards); (3) existing outlet works consisting of trashrack, headgate, and intake channel; (4) an existing sluice gate approximately 6 feet wide by 5 feet high; (5) new penstocks, about 400 feet long, to be either two 60-inch-diameter pipes, or a single 84-inch-diameter pipe; (6) two alternate sites are proposed for the powerhouse. The first proposed site is near the location where the original powerhouse was located, approximately 500 feet downstream from the dam, and would have an installed capacity of 1,800 kW. The other possible powerhouse site would be just downstream of the dam, and would have an installed capacity of 1,200 kW; (7) proposed transmission lines approximately 100 feet to 300 feet in length; and (8) appurtenant facilites. Applicant estimates that the average annual energy generation to be 3,200,000 kWh and 4,800,000 kWh, depending on the powerhouse utilized. The owner of the dam is Mr. August Klatz.

k. Purpose of Project: The applicant intends to sell the power produced to the local municipalities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary

permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license or exemption. Applicant estimates the cost of the work under the permit would be $125,000.

8a. Type of Application: Preliminary Permit.

b. Project No: 7504–000.

c. Date Filed: August 3, 1983.

d. Applicant: Kentucky Hydro Associates.

e. Name of Project: Kentucky River Lock and Dam No. 2 Water Power Project.

f. Location: Kentucky River, Owen County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bruce J. Wrobel, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02116.

i. Comment Date: January 23, 1984.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7504 would consist of: (1) The proposed replacement of approximately 100 feet of the right side of the present dam and spillway with a submerged powerhouse, constructed adjacent to the right abutment of the dam; (2) the proposed installation of two turbine/generator units with a total installed capacity of 8.2 MW; (3) a proposed transmission line; and (4) appurtenant facilities. Applicant estimates the average annual energy production to be 33.0 GWh.

k. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to the Kentucky Utilities Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $75,000.

n. *Purpose of Preliminary Permit*—A Perliminary permit does not authorize construction. A permit, if issued gives, the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

9a. Type of Application: Preliminary Permit.

b. Project No: 7555–000.

c. Date Filed: August 24, 1983.

d. Applicant: Alabama Power Company.

e. Name of Project: Claiborne Lock and Dam Water Power Project.

f. Location: Alabama River, Monroe County, Alabama.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. F. L. Clayton, Jr., Senior Vice President, Alabama Power Company, 600 North 18th Street, Birmingham, Alabama 35203.

i. Comment Date January 3, 1984.

j. Competing Application: Project No. 7435, Date Filed: July 8, 1983.

k. Description to Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 7555 would consist of: (1) A proposed 1500-foot-long headrace channel; (2) a proposed powerhouse to be located on the west bank, approximately 600 feet from the existing dam; (3) a proposed 1200-foot-long tailrace; (4) the installation of two turbine/generator units operating at a head of 30 feet, with an installed capacity of 20 NW; (5) a proposed 5-mile-long transmission line; and (6) appurtenant facilities. Applicant estimates the average annual energy production to be 98 GWh.

l. Purpose of Project: The Applicant intends to use the power generated at the proposed facility in its existing integrated transmission system.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $275,000.

o. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

10. a. Type of Application: Application for License (5 MW or Less).

b. Project No: 2785–001.

c. Date Filed: April 5, 1983 and supplemented on July 25, 1983.

d. Applicant: Wolverine Power Corporation.

e. Name of Project: Sanford Hydro Project.

f. Location: On the Tittabawassee River in Midland County, Michigan.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl F. Schilling, Vice President, Wolverine Power Corporation, P.O. Box 689, 503 N. Euclid Avenue, Suite 9D, Bay City, Michigan 48707.

i. Comment Date: January 13, 1984.

j. Description of Project: The proposed Sanford Hydro Project would consist of: (1) An existing 1,600-foot-long and 26-foot-high concrete dam; (2) an existing reservoir impoundment with a normal maximum surface area of 1,526 acres and a storage capacity of approximately 15,000 acre-feet; (3) a reinforced concrete multiple arch spillway with an overall length of 149 feet and surmounted by six steel tainter gates; (4) a powerhouse with a total installed capacity of 3.3 MW and producing an average annual energy output of 9000 MWh; (5) new transmission lines; and (6) appurtenant facilities. Energy produced at the project would be sold to Consumers Power Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11. a. Type of Application: Preliminary Permit.

b. Project No: 7507–000.

c. Date Filed: August 5, 1983, and supplemented September 14, 1983.

d. Applicant: Kent L. Brown.

e. Name of Project: South Fork Hydro Project.

f. Location: On the South Fork of the Humboldt River in Elko County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Kent L. Brown, Box 1144, Lamoille, Nevada 89828.

i. Comment Date: January 12, 1984.

j. Description of Project: The proposed project would consist of: (1) The South Fork Dam and Reservoir which is being built by the Elko County Recreation Board in conjunction with the State of Nevada; (2) a proposed intake structure from the dam; (3) a new powerhouse with an installed capacity of 1,600 kW; (4) new transmission lines; and (5) appurtenant facilities. The proposed South Fork Hydro Project will be entirely in state-owned lands. Applicant estimates the average annual generation for the project to be 4 GWh. All power generated would be sold to Sierra Pacific.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: Applicant has requested a 48-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $12,000.

m. Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

12a. Type of Application: Exemption (5MW or Less).

b. Project No: 2568–000.

c. Date Filed: April 29, 1983.

d. Applicant: Porterdale Hydroelectric Associates.

e. Name of Project: Porterdale Dam.

f. Location: Yellow River, Newton County, Georgia.

g. Filed Pursuant to:

h. Contact Person: Mr. Donald Rea, 200 Roosevelt Building, Pittsburgh, Pennsylvania 15222.

i. Comment Date: December 22, 1983.

j. Description of Project: The existing Porterdale Dam project consists of: (1) A granite masonry dam, about 12 feet high and 300 feet in length; (2) a headwater storage lake with a surface area of about 5 acres; (3) intake works and penstock about 480 feet in length; (4) a brick wall powerhouse containing two generating units with a total capacity of 1500 KW; and (5) appurtenant facilities.

Applicant proposes modernize and automate the existing facilities and thereby increasing the generating capacity to 2520 KW. The average annual generation is estimated to increase to 9,500,000 KWH from the present 6,200,000 KWH.

k. Purpose of Project: Power produced at the project is sold to the local utility.

l. This notice also consists of the following standard pargraphs: A1, A9, B, C and D3a.

13a. Type of Application: Preliminary Permit.

b. Project No: 7655–000.

c. Date Filed: September 26, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Willaby Creek.

f. Location: On Willaby Creek in Grays Harbor County, Washington within the Olympic National Forest.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: January 23, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion dam at elevation 1,210 feet; (2) a 36-inch-diameter, 6,800-foot-long pipeline; (3) a 10-foot-diameter, 50-foot-high surge tank at elevation 1,155 feet; (4) a 24-inch-diameter, 3,400-foot-long penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 1,700 kW operating under a head of 755 feet; and (6) a 1-mile-long, 122-kV transmission line. The estimated average annual energy output would be 5,940,560 kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies would range between $80,000 and $100,000.

k. Purpose of Project: Project power will be sold to Grays Harbor P.U.D.

l. This notice also consists of the following standard pargraphs: A6, A7, A9, B, C and D2.

14a. Type of Application: 5 MW Exemption.

b. Project No: 7465–000.

c. Date Filed: July 26, 1983.

d. Applicant: John G. Pless, Sr.

e. Name of Project: Stewarts Creek Hydropower Project.

f. Location: Stewarts Creek, Carroll County, Virginia.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended).*

h. Contact Person: Mr. John G. Pless, P.O. Box 517, Galax, Virginia 24333.

i. Comment Date: January 3, 1984.

j. Description of Project: The proposed project would consist of: (1) Two proposed concrete boxes, intake structures to be submerged in the creeks of the North Fork and South Fork of Stewarts Creek; (2) two proposed 60-foot-long penstocks running from the intake structures on the North and South Fork Creeks to the proposed powerhouse; (3) a proposed powerhouse to be built at the Confluence of the North and South Fork Creeks with the proposed installation of two turbine/generator units for a total installed capacity of 550 kw; (4) two proposed 60-foot-long discharge pipes delivering water from the powerhouse back to the stream; (5) a proposed 1500-foot-long transmission line that interconnects with an existing Appalachian Power Company powerline; and (6) appurtenant facilities. The Applicant estimates the total average annual energy production to be 3.1 GWh.

k. Purpose of Project: The Applicant intends to sell the power produced to the Appalachian Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

15a. Type of Application: Preliminary Permit.

b. Project No: 7439–000.

c. Date Filed: July 11, 1983.

d. Applicant: Mr. Michael Arkoosh.

e. Name of Project: George #1.

f. Location: On Henry's Fork of the Snake River, near the Town of Ashton, in Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Vernon Ravenscroft, P.O. Box 893 Boise, Idaho 83701.

i. Comment Date: January 16, 1984

j. Description of Project: The proposed run-of-river project would affect lands of the United States within the Targhee National Forest and would consist of: (1) A diversion structure; (2) a gated, screened concrete intake structure located at the left (east) bank; (3) a 1.25-

mile-long canal; (4) a 700-foot-long, 96-inch-diameter steel penstock; (5) a powerhouse containing a generating unit having a rated capacity of 2,649-kW operated under a 60-foot head and at a flow of 680 cfs; (6) electrical transformers and switching devices; (7) a 1.7-mile-long 34.5-kV transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company. Applicant estimates that the average annual energy output would be 15,807,400 kWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $96,500.

16a. Type of Application: Preliminary Permit.

b. Project No.: 7629-000.

c. Date Filed: September 16, 1983.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Beaver Creek Project.

f. Location: Grainger and Jefferson Counties, Tennessee.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 919 18th St., N.W., Suite 300, Washington D.C. 20006 and Mr. Joel L. Green, Chapman, Duff and Paul, International Square, 1825 Eye Street; N.W. Suite 300, Washington D.C. 20006.

I. Comment Date: January 11, 1984.

j. Description of Project: The proposed project consists of: (1) A proposed reservoir with a storage capacity of 58,000 acre-feet and a surface area of 2,400 acres at power pool elevation of 920 feet m.s.l.; (2) a proposed earthen dam with a 370-foot-long concrete spillway. The height of the dam would be approximately 70 feet; (3) a proposed reinforced concrete powerhouse containing two generating units rated at 15 MW each; (4) a proposed 115 kV transmission line; and (5) appurtenant facilities. The estimated average annual energy output would be 107,000,000 kWh.

k. This notice also consists of the following standard paragraphs: A6, A7, B, C, and D2.

l. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months to conduct feasibility studies, prepare final design plans and a license application. Applicant estimates the cost for this work would be $275,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the jPermitteek, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for license.

17a. Type of Application: 5 MW Exemption.

b. Project No.: 5530-001.

c. Date Filed: August 1, 1983.

d. Applicant: Commonwealth of Pennsylvania, Department of Environmental Resources.

e. Name of Project: Stevenson Project.

f. Location: The First Fork Sinnemahoning Creek in Cameron County, Pennsylvania.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: R. Timothy Weston, Associate Deputy Secretary, Pennsylvania Department of Environmental Resources, Evangelical Press Building, P.O. Box 1467, Harrisburg, Pennsylvania 17120.

i. Comment Date: December 23, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing earth dam 166 feet high and 1,665 feet long; (2) a reservoir having a surface area of 142 acres, a storage capacity of 2,000 acre-feet and normal water surface elevation of 920 feet msl; (3) an existing intake structure with new trashracks; (4) a new 16-foot-diameter steel and concrete penstock 1,170 feet long; (5) a new powerhouse containing 4 generating units with a capacity of 1,059 kW; (6) an existing tailrace; (7) a new 12.47-kV transmission line 1,000 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 4,334,000 kWh. All project power would be to either Tri-County Rural Electric Cooperative or to West Penn Power Company. This exemption was filed during the term of Applicant's preliminary permit for Project No. 5530.

k. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or licenses applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

18a. Type of Application: Preliminary Permit.

b. Project No: 7617-000.

c. Date Filed: September 15, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Canyon Creek Water Power.

f. Location: On Canyon Creek in Clallam County, Washington.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. 791(a)–825(r)).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washingon 98102.

i. Comment Date: January 16, 1984

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion structure at elevation 820 feet; (2) a 48-inch-diameter, 6,850-foot-long low pressure pipe; (3) a surge tank at elevation 805 feet; (4) a 32-inch-diameter, 3,000-foot-long penstock; (5) a powerhouse at elevation 520 feet containing a generator rated at 1.0 MW and producing an average annual output of 3.5 GWh; and (6) a 115-kV, 1.8-mile-long transmission line connecting to an existing line.

A preliminary permit, is issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $80,000 to $100,000.

k. Purpose of Project: Power may be marketed to the Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

19a. Type of Application: Application for License (5 MW or Less).

b. Project No. 7264-000.

c. Date Filed: May 5, 1983 and supplemented September 8, 1983.

d. Applicant: Fox Valley Corporation, *et. al.*

e. Name of Project: Middle Appleton Dam Hydro Project.

f. Location: On the Fox River in Outagamie County, Wisconsin.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Randall D. Farnum, Manager of Engineering and Maintenance, Fox River Paper Company, P.O. Box 2215, 100 West

Water Street, Appleton, Wisconsin 54913.

i. Comment Date: January 16, 1984.

j. Description of Project: The proposed Middle Appleton Dam Hydro Project would consist of: (1) An existing 372-foot-long and 18-foot-high concrete dam containing 16 tainter gates, each 20-foot-wide by 10-foot-high; (2) an existing small impoundment with a surface area of 35.5 acres completely bounded by industrial lands; (3) an existing clay diked power canal (West's Canal), 100-feet-wide and 1,600-feet-long, adjacent to the impoundment; (4) nine existing water wheels and generators located at various areas along the impoundment and power canal of which Fox River Paper Company operates seven water wheels, Appleton Mills and Appleton Machine Company each operates one water wheel; (5) an existing tailrace channel reuniting the main river at the easterly tip of the industrial lands. The Applicants estimates the total installed capacity of the project to be 1 MW with an average annual generation of 7,000 MWh. Energy produced at the project would be consumed by the Applicants.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

20a. Type of Application: Major License.

b. Project No: 3083–002.

c. Date Filed: July 19, 1983.

d. Applicant: KAMO Electric Cooperative, Inc.

e. Name of Project: KAW.

f. Location: Arkansas River, Kay County, near Ponca City, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. B. Dean Sanger, General Manager, P.O. Box 577, 900 South Wilson, Vinita, Oklahoma 74301.

i. Comment Date: January 16, 1984.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Kaw Dam and Kaw Lake and would consist of: (1) Two new trashracks, each of four panels, covering the two 17- by 40-foot intakes; (2) new 18- by 26-foot service gates; (3) a new powerhouse, 102 feet square, housing one turbine/generator unit rated at 37.0 MW at maximum net head of 105 feet; (4) a new switchyard; (5) a new 140-ton gantry crane; (6) a new 138-kV transmission line 18.2 miles long; and (7) appurtenant electrical and mechanical facilities. This license application was filed during the term of the Applicant's preliminary permit for Project No. 3083.

k. Purpose of Project: The average annual generation of 89.7 million kWh would be utilized by the Applicant in its own electrical distribution system.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

21a. Type of Application: Minor License.

b. Project No: 4206–001.

c. Date Filed: April 18, 1983.

d. Applicant: Energenics Systems Inc.

e. Name of Project: Laguna Dam.

f. Location: On the Colorado River, in Imperial County, California and Yuma County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Granville Smith II, Energenics Systems Inc., 1100 17th Street, N.W., Suite 505, Washington, D.C. 20036.

i. Comment Date: January 16, 1984.

j. Description of Project: The proposed run-of-river project would utilize the existing Bureau of Reclamation's 43-foot-high, 166-foot-long, Laguna Dam located on the Lower Colorado River and would consist of: (1) A 150-foot-long, 36-foot-wide, approach channel with a hydraulic capacity of 700 cfs; (2) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,068 kW and an average annual generation of 4.65 GWh; (3) a 48-foot-long concrete tailrace; and (4) 230 feet of 34.5–kV transmission line to connect to an existing Bureau of Reclamation line. Project power would be sold to Southern California Edison Company. The project would affect Bureau of Land Management lands. The estimated project cost is $2.1 million.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

22a. Type of Application: Preliminary Permit.

b. Project No: 7668–000.

c. Date Filed: October 3, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Silver Creek.

f. Location: Mt. Baker-Snoqualmie National Forest, on the Silver Creek, in Kittitas County, near the town of Easton, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: January 16, 1984.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete gravity diversion dam at elevation 3,600 feet; (2) a 26-inch-diameter, 5,500-foot-long penstock; (3) a powerhouse with a single generator having a rated capacity of 2.8 MW and an average annual output of 9.87 GWh; and (4) a .5-mile-long, 69-kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $90,000.

k. Purpose of Project: Power may be marketed to Puget Sound Power and Light Company, Seattle City Light Company, Chelan County P.U.D. No. 1, or Kittitas County P.U.D. No. 1.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

23a. Type of Application: Preliminary Permit.

b. Project No: 7642–000.

c. Date Filed: September 22, 1983.

d. Applicant: Beaver Falls Power Company.

e. Name of Project: Beaver Falls III.

f. Location: On the Beaver River, in the Village of Beaver Falls, Towns of Croghan and New Bremen, Lewis County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Alexander J. Albrecht, P.O. Box 498, Brattleboro, Vermont 05301.

i. Comment Date: January 13, 1984.

j. Description of Project: The proposed project would consist of: (1) A new 250-foot-long 20-foot-high concrete-gravity overflow-type dam having crest elevation 750 feet U.S.G.S.; (2) a new 100-foot-long 15-foot-high earth embankment along the left (south) bank; (3) a reservoir having a surface area of 3 acres and a storage capacity of 40-acre feet; (4) a new powerhouse containing a generating unit having a rated capacity of 1,400-kW operated under a 24-foot head and at a flow of 750 cfs; (5) a new 300-foot-long tailrace; (6) a new 300-foot-long 2.3-kV transmission line; and (7) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 7,400,000 kWh.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the activities, along

with preparation of an environmental report, obtaining agreements with Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $40,000.

n. Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

24a. Type of Application: Exemption From Licensing (5 MW or Less).

b. Project No: 7350–000.

c. Date Filed: June 9, 1983.

d. Applicant: Cameron A. and Deanna E. Curtiss.

e. Name of Project: Denny Creek Hydro Project.

f. Location: On Denny Creek, in Klamath County, Oregon.

g. Filed Pursuant to: Section 408 of the Federal Energy Security Act, 16 U.S.C. 2705 and 2708 *as amended*.

h. Contact Person: Mr. Cameron A. Curtiss, Harriman Route, Box 20, Klamath Falls, Oregon 97601.

i. Comment Date: December 27, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 200-foot-long existing diversion dam on Denny Creek at elevation 4168.00 feet; (2) a 1,690-foot-long, 2-foot-diameter penstock; (3) a powerhouse at elevation 4100.00 feet to contain a generator with a rated capacity of 50 kW under an operating head of 70 feet; and (4) a 300-foot-long transmission line from the powerhouse to an existing Pacific Power and Light Company (PP&L) transmission line. The Applicant estimates the average annual energy generation at 0.37 million kWh which would be sold to PP&L.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

25a. Type of Application: Preliminary Permit.

b. Project No: 7646–000.

c. Date Filed: September 23, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Copper Creek.

f. Location: On Copper Creek in Skamania County, Washington within the Gifford Pinchot National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: January 16, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion dam at elevation 1,610 feet; (2) a 60-inch-diameter, 18,800-foot-long pipeline; (3) a 10-foot-diameter, 55-foot-high surge tank; (4) a 34-inch-diameter, 8,850-foot-long penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 2,210 kW operating under a head of 643 feet; and (6) a 7-mile-long, 12.48-kV transmission line. The estimated average annual energy output would be 7,738,250 kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies would range between $60,000 and $80,000.

k. Purpose of Project: Project power will be sold to the Clark County Utility District.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

26 a. Type of Application: Preliminary Permit.

b. Project No: 7674–000.

c. Date Filed: October 3, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Falls Creek.

f. Location: On Falls Creek, near the town of Amanda Park, in Gray's Harbor County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: January 23, 1984.

j. Description of Project: The proposed Project would consist of: (1) A 10-foot-high concrete diversion dam at elevation 1,210 feet; (2) a 36-inch-diameter, 3,400-foot-long low pressure conveyance pipe; (3) a 10-foot-diameter, 55-foot-high surge tank at elevation 1,160 feet; (4) a 24-inch-diameter, 3,100-foot-long penstock; (5) a powerhouse containing a single generator with a rated capacity of 1,580 kW and an average annual energy production of 5.54 GWh; (6) a switchyard; and (7) a 2.0-mile-long, 12.2-kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $90,000.

k. Purpose of Project: Power may be marketed to Gray's Harbor Public Utility District.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or, conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric

exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exempting application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application , which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete: whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent— A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either: (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the Applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPLETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statues. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing coments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions of protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions of protect any fish and wildlife resources or to otherwise carry out the provisions ot the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: November 8, 1983

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30673 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-60-000]

Centel Corp.; Filing

November 7, 1983.

The filing Company submits the following:

Take notice that on October 31, 1983, Centel Corporation (Centel) tendered for filing a Wholesale Contract between Centel, Western Power and the Municipal City of Montezuma, Kansas. Centel states that the energy purchased by the city under the terms of this contract is for the operation of the electric distribution system and other such uses.

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 November 23, 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. 83-30765 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-5-000]

Central Vermont Public Service Corp. and Green Mountain Power Corp.; Joint Application

November 7, 1983.

Take notice that on November 2, 1983, Central Vermont Public Service Corporation ("CVPS") and Green Mountain Power Corporation ("GMP") submitted for filing their Joint Application for Authority to Acquire Securities of Vermont Electric Power Company, Inc.

CVPS and GMP propose to purchase between them 5,000 shares of Vermont Electric Power Company's Class B Common Stock in order to permit Vermont Electric to obtain the debt financing for its construction program, and to permit Vermont Electric to comply with its Indenture of Mortagage.

CVPS and GMP assert that it is crucial that the Commission approve the purchase of the securities prior to November 30, 1983 because the agreement with the bond purchasers may be in jeopardy.

CVPS and GMP further state that it is intended that CVPS purchase 56.88% of the shares or 2,844 shares, and that GMP purchases 43.12% or 2,156 shares. The per value of each share is $100.00.

A copy of this Application has been mailed to the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-30766 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3624-002]

City of Redding; Surrender of Preliminary Permit

November 9, 1983.

Take notice that City of Redding, Permittee for the Soeltzer Dam Power Project, FERC No. 3624, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 3624 was issued on February 27, 1981, and would have expired on January 31, 1984. The project would have been located on Clear Creek in Shasta County, California.

City of Redding filed the request on October 11, 1983, and the surrender of the preliminary permit for Project No. 3624 is deemed accepted as of October 11, 1983, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30767 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4287-001]

Georgetown Divide Public Utility District; Surrender of Preliminary Permit

November 9, 1983.

Take notice that Georgetown Divide Public Utility District, Permittee for the Lower South Fork American River Lower Mountain Project, FERC No. 4287, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4287 was issued on October 15, 1981, and would have expired on September 30, 1984. The project would have been located on South Fork American River in El Dorado County, California.

Georgetown Divide Public Utility District filed the request on August 1, 1983, and the surrender of the preliminary permit for Project No. 4287 is deemed accepted as of August 1, 1983, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30768 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5793-001]

Lawrence J. McMurtrey; Surrender of Preliminary Permit

November 9, 1983.

Take notice that Mr. Lawrence J. McMurtrey, Permittee for the Owl Creek Power Project, FERC No. 5793, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 5793 was issued on May 10, 1982, and would have expired on November 30, 1983. The project would have been located on Owl Creek in Snohomish County, Washington.

Mr. Lawrence J. McMurtrey filed the request on September 19, 1983, and the surrender of the preliminary permit for Project No. 5793 is deemed accepted as of September 19, 1983, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30769 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6961-001]

Midvale Irrigation District; Surrender of Preliminary Permit

November 9, 1983.

Take notice that Midvale Irrigation District, Permittee for the proposed Pilot Butte Dam and Power Plant Project No. 6961, has requested that its preliminary permit be terminated. The permit was issued on May 16, 1983, and would have expired on April 30, 1985. The project would have been located at the U.S. Bureau of Reclamation's Pilot Butte Dam in Fremont County, Wyoming.

The Permittee filed its request on August 22, 1983, and the surrender of the preliminary permit for Project No. 6961 is deemed accepted 30 days after issuance of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30770 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-54-000]

Niagara Mohawk Power Corp.; Filing

November 7, 1983.

The filing Company submits the following:

Take notice that on October 27, 1983, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate schedule an agreement between Niagara and the Vermont Public Power Supply Authority (Vermont) dated November 1, 1983.

Niagara states that the agreement provides for the transmission of short-term power and associated energy from Ontario Hydro to Vermont.

Niagara further states that the agreement supersedes a previous agreement between the two parties dated November 1, 1982.

Niagara requests an effective date of November 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Vermont Public Power Supply Authority and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 22, 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. 83-30771 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5976-001]

Public Utility District No. 1 of Jefferson County, Washington; Surrender of Preliminary Permit

November 9, 1983

Take notice that Public Utility District No. 1 of Jefferson County, Washington, Permittee for the Fulton Creek Project, FERC No. 5976, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on October 18, 1982, and would have expired on April 30, 1984. The project would have been located on Fulton Creek in Jefferson County, Washington.

Public Utility District No. 1 of Jefferson County, Washington filed the request on October 7, 1983, and the surrender to the preliminary permit for Project No. 5976 is deemed accepted as of October 7, 1983, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30772 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5409-001]

Richard K. Linville; Surrender of Preliminary Permit

November 9, 1983.

Take notice that Richard K. Linville, Permittee for the C. Ben Ross Water Power Project No. 5409, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 5409 was issued on June 9, 1982, and would have expired on December 31, 1983. The project would have been located on Little Weiser River in Adams County, Idaho.

The Permittee filed the request on October 5, 1983, and the surrender of the preliminary permit for Project No. 5409 is deemed accepted as of October 5, 1983, and effective as of 30 days after the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30773 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7104-001]

Seneca-Taylor Associates; Surrender of Preliminary Permit

November 9, 1983.

Take notice that Seneca-Taylor Associates, Permittee for the proposed Seneca-Taylor Hydro Project No. 7104, has requested that its preliminary permit be terminated. The permit was issued on July 20, 1983, and would have expired on June 30, 1985. The project would have been located on the Mississippi River in Alamakee County, Iowa.

The Permittee filed the request on October 17, 1983, and the surrender of the preliminary permit for Project No. 7104 is deemed accepted 30 days from the date of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-30774 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-58-000]

Washington Water Power Co.; Filing

November 7, 1983.

The filing Company submits the following:

Take notice that on October 31, 1983, Washington Water Power Company (Washington) tendered for filng copies of a service schedule applicable to what Washington refers to as a Capacity Sales Agreement between Washington and the City of Seattle, Department of Lighting (Seattle) for the sale of capacity. Washington states that the capacity will be made available to Seattle from December 1, 1983, through February 29, 1984.

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 November 23, 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. 83-30775 Filed 11-14-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OLEC-FRL 2422-4]

Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981; United States Steel Corporation

AGENCY: Environmental Protection Agency.

ACTION: Notice of Amended Findings.

SUMMARY: On December 29, 1982, the Administrator consented to the entry of new and amended consent decrees negotiated with United States Steel Corporation ("the Company") pursuant to the Steel Industry Compliance Extension Act of 1981 ("Steel Stretchout Act"). At the same time, the Administrator made final findings respecting the company's eligibility for Stretchout relief. This notice sets out the Administrator's consent to the entry of a further consent decree amendment under the Steel Industry Compliance Extension Act of 1981. The decree to be further amended covers the United States Steel Corporation's Lorain, Ohio Works. The additional amendment substitutes an equivalent project for a portion of the modernization project currently specified in the decree.

This notice also modifies the final findings of December 29, 1982 respecting the acceptability of United States Steel Corporation's Strechout application (48 FR 730, January 6, 1983).

FOR FURTHER INFORMATION CONTACT: Michael S. Alushin, Associate Enforcement Counsel, Air Enforcement Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2820.

SUPPLEMENTARY INFORMATION: One of the final findings of December 29, 1982 was based on the company's commitment to construct two bar billet grinders at its Lorain, Ohio plant as a modernization project offsetting certain pollution control expenses deferred pursuant to the Stretchout Act. The commitment constituted a portion of a consent decree amendment which was negotiated pursuant to the Stretchout Act. That amendment to the Lorain decree, the third, was lodged on January 4, 1983 and entered on February 23, 1983. One of the provisions of the amended Lorain decree provides that "[T]he Decree may be modified by consent of the parties to substitute equivalent projects for the modernization projects required (by this Decree)." Such provision is authorized by the Steel Stretchout Act. 42 U.S.C. 7413(e)(2). By a letter dated March 4, 1983, the company formally requested the decree provision covering the billet grinder project be modified. The requested modification substitutes construction of facilities to permit bottom-pouring of ingots at the Lorain Basic Oxygen Process ("BOP") Shop for construction of one of the bar billet grinders currently required by decree.

Under the company's proposal, the money to be spent on the bottom-

pouring facilities and one bar billet grinder will at least equal the amount currently required to be spent on the two bar billet grinders. The company's proposal has been reviewed by EPA's technical staff and they have determined that the bottom pouring facilities will improve the efficiency and productivity of the Lorain Plant. The company has indicated that the date originally established for initiation of operation of the bar billet grinders—May 30, 1984—can be met for the bottom-pouring portion of the project.

This notice represents the Agency's formal determination that the modernization project at the Lorain, Ohio plant, as amended by the requested substitution, meets the requirements of the Steel Industry Compliance Extension Act, and is equivalent to the project originally specified in the consent decree. 42 U.S.C. 7413(e)(1)(B) and (e)(2).

Finding

This notice amends an earlier finding published in the **Federal Register** on January 6, 1983 (48 FR 730), by striking that portion of Finding Number 2 beginning with the subtitle "Lorian Works" and continuing through the words "quality bar shipments" and substituting therefore the following:

Lorian Works $9.86 Mn

Initiation of operation: May 30, 1984.

Installation of facilities to permit bottom-pouring of steel ingots at the Lorain BOP Shop and one additional high-capacity fixed head bar billet grinder at the Billet Conditioning Facility. The project includes a new building, billet handling equipment and air quality control equipment consisting of a bag house to collect emissions from the billet grinder. The facilities will provide the necessary capability for quality bar shipments.

Consent

I hereby give notice that I have consented to the entry of an amendment to the Lorain Works consent decree allowing a substitution of modernization projects as decribed above.

Dated: November 3, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-30721 Filed 11-14-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42042; TSH-FRL 2452-8]

4-(1,1,3,3-Tetramethylbutyl)phenol; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC's) recommendation that 4-(1,1,3,3-tetramethylbutyl)phenol (TMBP) be tested for health and environmental effects under section 4(a) of the Toxic Substances Control Act (TSCA). Subsequent to the ITC's recommendation, the manufacturers proposed specific aquatic toxicity testing for the chemical and presented to EPA information regarding production, use, toxicity and exposure of TMBP. The Agency also received additional health effects data through the TSCA section 8(d) Health and Safety Data Reporting requirement. EPA believes that the available health effects information and the proposed aquatic toxicity testing program will provide sufficient information to reasonably predict the effects of TMBP. Consequently, the Agency is not initiating rulemaking at this time to require testing of TMBP under TSCA section 4(a). EPA seeks comments on its conclusions and on the adequacy of the proposed industry testing program.

DATE: Comments should be submitted on or before December 30, 1983.

ADDRESSES: Written comments should bear the document control number [OPTS-42042] and should be submitted in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection in Rm. E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Room E-543, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, DC.: (554-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2006 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to assessing the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for promulgation of testing rules under section 4(a) of the Act.

On November 3, 1982, the ITC placed 4-(1,1,3,3-tetramethylbutyl)phenol (TMBP) on its priority testing list in its Eleventh Report to the EPA Administrator which was published in the **Federal Register** on December 3, 1982 (47 FR 54624). The ITC recommended that TMBP be considered for short-term health effects testing, including mutagenicity, and for environmental effects testing including acute and chronic toxicity to fish and aquatic invertebrates, toxicity to plants, bioconcentration, and chemical fate.

The ITC recommended TMBP for testing, in part, because of a large estimated annual production volume, multiple consumer uses, expected releases and subsequent environmental exposure, expected resistance to biodegradation, and detection in surface water and workplace atmosphere. The health effects recommendations were also based on an observed leukodermal action of TMBP, which the ITC believed indicated a profound effect on the biochemical and physiological processes in the dermal cells of several species. It recommended that short-term health effects tests, including mutagenicity, be used to provide a means to investigate the toxicological mechanisms of TMBP. No data were found to exist for subchronic, chronic, mutagenic, teratogenic, reproductive effects or pharmacokinetics testing of TMBP. The ITC believed that information resulting from short-term testing could be used in determining the need for further health effect studies.

Environmental effects testing of TMBP was recommended because of a potential risk to the aquatic environment as indicated by: (1) Its introduction to the aquatic environment from uses of TMBP-containing products; (2) its detection in wastewater entering a freshwater river system at levels exceeding a known LC_{50}; and (3) its expected persistence, bioconcentration and transport through the food chain due to a relatively high estimated octanol/water partition coefficient. No data were found on the long-term effects of TMBP on either aquatic plants or animals; nor were data on the

physiological, behavioral, or ecosystem effects of TMBP. Chemical fate testing was also recommended to better characterize the transport, transformation, and persistence of TMBP in the aquatic environment.

This notice provides EPA's response to the ITC's designation of TMBP for testing consideration.

II. Exposure

TMBP is a synthetic compound commercially available in the form of waxy, non-dusting white to light tan flakes or as a pale yellow liquid in the molten state, both of which have a phenolic odor (Ref. 1). Solid TMBP is stable at room temperature (calculated vapor pressure of 0.962×10^{-3} mm Hg at 25°C), soluble in many organic solvents (Ref. 2) and has a low solubility in water [(0.017 g/1 at 25°C (Ref. 3) and 0.10 g/1 at 25°C (Ref. 4)]. The compound is susceptible to oxidation by molecular oxygen, singlet oxygen, or hydroxyl radicals (Ref. 2). TMBP is not expected to hydrolyze and should not react with dilute aqueous acids, but it may form water-soluble salts with strong bases. The melting point for this compound is 84°C, the calculated volatilization half-life is 473 h, and the log P octanol/water value is 3.7 (Ref. 5). The empirical formula for TMBP is $C_{14}H_{22}0$ and its molecular weight is 206.

TMBP is used predominantly as a chemical intermediate. TMBP's two main commercial applications are (1) TMBP-resins formed by a condensation raction of TMBP with aldehydes and (2) nonionic TMBP-surfactants formed by polycondensation of ethylene oxide with the base TMBP molecule. A minor application involves sulfonation, yielding bisphenol mono- and disulfides.

TMBP resins are used as tackifiers, as extenders in adhesives, in varnishes and marine paints, and as binders in printing inks. TMBP resins are a member of the phenolformaldehyde resin class. These resins are classified as either resoles or novolaces depending upon their chemical composition and properties.

TMBP resoles are used in the rubber industry where the methylol groups provide cross-linking, which is desirable in the butyl rubber curing process for tire manufacture. They are also used in the curing system for neoprene contact adhesives. TMBP novolaces are normally used in combination with certain modified pine tars as general and specific purpose tackifiers. These tackifiers may find use in synthetic rubber and blends used in products such as tires and rubber belts. TMBP release from the chemical matrix existing in this use appears to be minimized.

In coatings, TMBP resins are blended with drying oils to make varnishes which are resistant to alkalis, water, and sea water, and possess good color stabilization properties. In printing inks, TMBP resoles are used as binders for offset and gravure inks, which are used for the printing of magazines and catalogues.

Nonionic TMBP-surfactants, or TMBP-ethoxylates, are used as detergents, wetting agents, and as emulsifiers for aromatic solvents and pesticides. As detergents, TMBP-ethoxylates are used predominately in industrial and institutional cleaners and to a lesser extent in consumer products. Other uses for TMBP ethoxylates are in textile scouring, oil emulsifiers, and in acrylic polymer emulsions (Refs. 6, 7, and 8).

No data on production trends exists for TMBP but production is known to be substantial (Ref. 6). For instance, production in 1977 was reported to be between 12 and 70 million pounds (Ref. 9) and estimated by industry and the ITC to be 45–55 million pounds in 1978 (Ref. 10). Current (1982) annual production levels are reported to be about 40 million pounds (Ref. 11). Specific end use consumption patterns and market growth rates are not available for this chemical in the literature. However, the Agency believes that demand for TMBP is stable and that substantial market growth is unlikely.

TMBP is produced commercially by a closed system reaction of phenol and diisobutylene at elevated temperatures in the presence of an acid, such as sulfuric acid, or a Lewis acid catalyst (Ref. 11). The main reaction product is a mixture of the orthoand para-isomers which are subsequently separated by distillation (Ref. 12 and 13). Import and export data have not been published for TMBP since 1975 when 30,000 pounds were imported. More recent import volumes are thought to be small as well (Ref. 14).

TMBP-formaldehyde resins are manufactured in closed systems and tightly controlled areas because of the presence of formaldehyde. TMBP is also used as a captive intermediate in the manufacture of TMBP-surfactants. Again, manufacturing operations and equipment are closed to the atomsphere due to the explosibility and known toxicity of phenols, formaldehyde, and ethylene oxide (Ref. 11).

More than 90 percent of the TMBP manufactured is used or processed on-site. When TMBP is shipped outside the production facility, it is shipped in the form of flakes in 50 pound bags or in bulk as molten TMBP in insulated rail tankcars and tanktrucks (Ref. 1).

During the manfacturing process, TMBP is transferred as a molten material in closed systems. The transfer of molten TMBP occurs by automated pumping to storage tanks and, as needed, to the closed kettles or mixing tanks for use as a reactant in manufacturing TMBP-products. When TMBP-flakes are produced, molten TMBP is transferred to an enclosed water-cooled drum flaker which is maintained under negative pressure to minimize dusting. The flakes then enter a controlled dispensing system from which the flakes are packaged. These packaging stations are vented, usually by exhaust snorkels. Worker in these areas are also provided protective equipment, including masks, respirators and complete outerwear clothing for their use (Ref. 11).

The manner in which TMBP is produced and handled leads the Agency to believe the potential for worker exposure and the number of workers exposed to be quite small. From the TSCA section 8(a) Preliminary Assessment Information submitted by the TMBP manufacturers, a total of fewer than 200 employees work in positions where exposure to TMBP may occur. This information also shows that none of the manufacturers is producing the chemical every workday of the year. Potentials for worker exposures to TMBP at the manufacturing facilities will occur intermittently and only as a result of accidental (i.e., spills, etc.) or incidental (i.e., sampling, maintenance, etc.) exposure. No information is available from the National Occupational Hazard Survey on potential exposures to TMBP.

In those areas of the TMBP production in domestic operations which are not self-contained, the potential for exposure to TMBP is more likely. Such operations include filter changing, catalyst bed changing, bulk loading or unloading, reactor sampling, and TMBP flaking and bagging. These activities are shown to generally involve only 1 or 2 workers, are carried out only a few times during the year, and involve only brief periods of potential exposure (Ref. 11).

At least 95–98 percent of all TMBP used in the United States is chemically altered before reaching the consumer market. Except for low residual levels of unreacted TMBP prerent in surfactants, the remaining 2–5 percent is believed to be physically encapsulated. EPA's concern for exposure to low levels of unreacted TMBP in surfactants had been addressed through several studies of typical TMBP-ethoxylated surfactants containing residual amounts of TMBP

(Refs. 15, 16, 17, 18, 19, 20, and 21). The results of these studies showed that TMBP-containing surfactants produced no significant toxic effects in a 2-year chronic study nor in several subchronic studies, produced no reproductive effects, and caused no genetic damage.

TMBP has been identified in a chemical plant's effluent at 5 ppm and in the Delaware River (Refs. 22 and 23). It was present in water samples taken from the Delaware during the winter months at 1–2 ppb, and in summer samples at approximately 0.2 ppb. The highest concentrations were found around Philadelphia, Pa. The same authors (Ref. 23) traced industrial organic chemicals from their sources into the Delaware River, through various treatment facilities, and into one of Philadelphia's finished drinking water facilities. Various octylphenols, but predominantly TMBP, were identified in the intake water supply of the drinking water treatment plant at 0.4 ppb and in finished drinking water at approximately 0.01 ppb. The Agency concludes, however, that there is no reason to believe these levels of exposure pose a risk to human health given the health effects information described below.

The Agency is aware of two manufacturers which have plant effluents that are expected to enter brackish and salt water habitats. Both plants are located in Texas on the Gulf coast, and are described as having elaborate on-site waste treatment plants. One of these manufacturers found TMBP at 2–34 ppb in its effluent during a 1983 manufacturing period. This range corresponds to a daily discharge of 0.06 to 1.0 pounds of TMBP (Ref. 11). A recent analysis from the other manufacturing plant found 20 ppb TMBP in the effluent. This is equivalent to a yearly discharge of 2.766 pounds of TMBP and a daily discharge of 0.008 pounds of TMBP (Ref. 11)—a negligible amount.

No information was available on the environmental releases of TMBP following land disposal of manufacturing or processing wastes or following the ultimate disposal of industrial or consumer products.

III. Health and Environmental Effects

A. *Human Health.* No data were available on the absorption, tissue distribution, and metabolism of this compound in any species. Limited information was available on the urinary excretion of TMBP in humans. TMBP was found to be excreted in the urine of workers employed in a Japanese factory manufacturing the chemical. A range of 1.6 to 4.8 μg/ml was reported for packers during their work shift; off duty, a range of 0.8 to 3.1 μg/ml was reported. Inhalation and dermal absorption were suggested as possible routes of entry into the body (Ref. 24). The study authors made no attempt to determine the nature (free or conjugated form) of the excretory product(s).

TMBP was shown to have no effect on conjugation reactions (sulfation and glucuronidation) that occur in rat liver (Ref. 25). *In vitro* studies showed that 4.8×10^{-3} M TMBP medium for 80 minutes inhibited cresolase activity associated with the enzyme tyrosinase obtained from potato rinds (Ref. 26). TMBP inhibited enzyme activity to 61 percent of the control value.

The acute oral toxicity (LD_{50}) of TMBP was approximately 3,210 mg/kg for mice and 4,600 mg/kg for rats (Ref. 27). The authors reported that TMBP caused drowsiness, decreased motor activity of the animals, and death in 2–3 days. The pathological changes observed at death included liver dystrophy, bronchopneumonia, spleen hemorrhages, and changes in brain and kidney blood vessels. In 1972, Marhold (as reported in Ref. 28) reported an oral LD_{50} of 2,160 mg/kg for rats. The dermal LD_{Lo} (lowest concentration at which death of any animals was observed) for the mouse was 5,280 mg/kg. Testing by one manufacturer reported a dermal LD_{50} of 2 ml/kg (1,880 mg/kg) for rabbits (Ref. 29).

TMBP was considered to be a moderate toxicant (Refs. 25 and 27) and severe skin and eye irritant to rabbits (Ref. 29). Prolonged contact of the compound with the skin produced local burns, irritation, inflammation, edema, and eschar (scab.). Also, the compound quickly produced severe eye irritation, inflammation, suppuration, and persistent turbidity of the cornea in rabbits (Refs. 27 and 29). At 500 mg/24 hour, TMBP caused moderate skin irritation, and at 50 mg/24 hour, it produced severe eye irritation in rabbits (Ref. 28).

TMBP caused depigmentation of the skin and hair in black mice. This effect was noticed as early as 9 weeks from the time the animals received 0.103 mg per animal of either the crude or refined compound daily for 7 months, subcutaneously (Ref. 26). In a parallel set of experiments in mice, these same investigators administered, by gavage, 0.24 mg of TMBP 3 times per week per animal for 6 months. Less pronounced depigmentation was observed in mice dosed orally.

In the first study, depigmentation was seen on the body surface of mice where the compound was injected, indicating a systemic action. No other toxic parameter was studied in these mice. However, another study (Ref. 30) cited some unpublished data from the Hara Nakajima study, where small quantities of a mixture of 0.5 g TMBP, 5 ml propylene glycol, and 50 g polyethylene glycol were applied to the skin of rabbits daily for 20 weeks. This treatment produced capillaritis, consisting of perivascular cellular infiltration and formation of thrombi.

A few cases of skin depigmentation were observed among the product packers in a Japanese factory producing TMBP along with *p*-tert-butylphenol and *p*-tert-amylphenol (Ref. 24). The workers who developed depigmentation also had high levels of urinary metabolites of these compounds in comparison to plant operators and engineers who had no such symptoms. In another Japanese factory producing TMBP and *p*-tert-butylphenol, 51 cases of leucoderma were reported among workers engaged in the synthetic process during a period of 5 years (Ref. 26). The biopsy of patients' skin revealed the depletion of melanin granules in the epidermis, the presence of vacuolated and edematous cells of capillary walls in cutis, and an increase in perivascular histiocytes. All these histological findings suggest a characteristic capillaritis. Because these workers were exposed to several alkylphenols, including TMBP, it is difficult to ascertain which of these compounds was the causative agent. Several cases of occupational vitiligo were also reported in Japanese workers exposed to resins and detergents containing the compound (Ref. 26). There are no known reports of human health effects specifically attributed to TMBP.

In a subchronic toxicity study (Ref. 31), which was submitted to EPA pursuant to TSCA section 8(d), the authors reported that rats receiving 30, 300, or 3,000 ppm TMBP in their diets for 3 months did not experience any discernible treatment-related effect on the liver or kidney at doses up to 3,000 ppm. Doses of 300 ppm did not influence the thyroid gland, but upon administration of 30 ppm TMBP for 1 month, the thyroxin content in female animals was increased, though slightly. Dosages of 3,000 ppm resulted in clearly higher mean thyroxin concentrations in female animals during the test. The histopathological analysis of the other organs of the animals in the control and the highest dosage group of this study also did not provide an indication for specific organ damaging effects of TMBP. After receiving 300 ppm, the increase in body weight was slightly reduced, primarily in males (<0

percent). Furthermore, some significant reductions in organ weights for male and female animals receiving the 300 ppm dose, as compared to the control animals, point to an impairment in growth. For rats receiving 3,000 ppm, the weight gain and organ growth was clearly delayed.

In another study (Ref. 20), test rats were maintained for 2 years on diets containing up to 1.4 percent tert-octylphenoxy-polyethoxy ethanols, which is one of several typical surfactants shown to contain residual TMBP-levels of 50–300 ppm (Ref. 11). Results of this study showed no effect on survival, growth, organ to body weight ratios for liver, kidney, spleen, heart and testes, and no histological abnormalities. The Agency believes the results of this study, in combination with those of the TMBP subchronic study, are sufficient to reasonably predict the human health risk associated with known exposures to TMBP and, therefore, no subchronic or chronic effects testing is being required at this time.

Little information was in the available literature on tests of TMBP for oncogenicity in any species. However, one study, a two-stage (initiation-promotion) carcinogenic bioassay, showed that TMBP failed to promote carcinomas after tumor initiation by the known carcinogen dimethylbenzanthracene, but TMBP produced papillomas in 11 percent of the 18 surviving test animals (Ref. 32). To initiate tumor formation, these investigators applied 75 μg (25 ul of a 0.3 percent solution in benzene) of dimethylbenzanthracene to the shaved test area on the back of each of 40 female Sutter mice aged 2–3 months. After 1 week, 20 of the animals each received 25 ul of 22 percent TMBP in benzene on the test area twice weekly for 12 weeks. The remaining animals received benzene during this period. TMBP alone, without tumor initiation, was not tested. However, concurrent control groups in other experiments, as reported in this study, showed an incidence of papillomas among surviving mice similar to the TMBP treated mice (i.e., 3 of 27 for 11 percent, 1 of 15 for 7 percent, and 2 of 16 for 13 percent). These control mice were initiated with 5 percent DMBA, but not treated with a solution of TMBP. The Agency concludes that these findings do not indicate an oncogenic potential for TMBP.

No information was found on the testing of TMBP for teratogenic, reproductive effects or neurotoxic effects. Information on the effects of related compounds on these parameters also is lacking. However, information does not suggest that TMBP may present an unreasonable risk of these effects to human health and, therefore, no further testing is found to be necessay at this time.

A mutagenicity study of *S. typhimurium* histidine auxotrophs using TMBP doses up to 12,500 μg per plate was also submitted to EPA pursuant to TSCA section 8(d) (Ref. 33). In this study, the authors reported that dosages ranging up to 8 μg per plate exhibited no bacteriotoxic effect and the total number of microorganisms per plate remained unchanged. A growth-inhibiting effect could not be established. However, with increased dosages (greater than 8 μg per plate), TMBP exhibited strong bacteriotoxicity both with and without the microsomal S–9 fraction. At 2,500 μg per plate, TMBP precipitated out of the medium, so results at or greater than this concentration are inconclusive. The authors concluded from their study that TMBP exhibited no mutagenic effect, nor was there a dose-dependent doubling or a significant increase in the number of mutants when compared to the negative control. The positive controls employing endoxan, trypaflavin, and 2-aminoanthrazine were clearly mutagenic. Since TMBP appears to have low toxicity and is negative in this mutagenicity study, the Agency believes there is no basis suggesting that TMBP may present an unreasonable mutagenic risk to humans and therefore no further testing is found to be necessary at this time.

No epidemiological studies were in the available literature specifically concerned with the exposure to TMBP.

B. *Environmental.* TMBP is toxic to a species of marine shrimp. The static 96-hour LC_{50} value of the compound tested on shrimp (*Crangon septemspinosa*) was 1.1 mg/1. The lethal threshold for the shrimp was determined to be 1.0 mg/1 (Ref. 5). Based on a series of alkylphenols testing on this shrimp and the juvenile Atlantic salmon (*Salmo salar*) fish, these investigators suggested that phenols and alkyl substituents ranging from 6 to 12 carbon atoms are highly toxic to aquatic fauna. Tertiary alkyl substituents appeared to impart less toxicity than did primary or secondary substituents. However, TMBP itself was not tested in fish. The Agency has concluded that further acute and perhaps chronic testing with aquatic organisms is necessary.

The bioconcentration factor was not experimentally determined for the compound, but four closely related parasubstituted phenols (sec butyl-, hexyl-, nonyl- and dodecylphenol) were tested in 4-day uptake and excretion studies with juvenile Atlantic salmon (*Salmo salar*). Based on the data from these studies and using the log P value for TMBP, McLeese *et al.* developed an equation to predict the bioconcentration factor for TMBP (Ref. 5). A bioconcentration factor of 331 for fish was calculated; this is described as a moderate bioconcentration factor (Ref. 5). Of course, life stage, fat content, and metabolic factors may result in a range of bioconcentration values for various species under actual experimental conditions. However, EPA believes that the estimated bioconcentration factor is sufficient to reasonably predict the bioconcentration potential of TMBP, and that there is no basis for requiring such a determination at this time.

TMBP inhibited spore germination (sporostatic action) and its outgrowth in the bacterium *Bacillus megaterium*. At concentrations of 3.2 and 10.0 μγ/ml of the nutrient medium, the compound caused 50 percent inhibition of spore germination for 2 and 24 hours, respectively. Approximately 99 percent sporostasis was caused at concentrations of 32 and 100 μγ/ml (ppm) for periods of 2 and 24 hours, respectively. At 100 μγ/ml, TMBP prevented any outgrowth of bacterial spores for 24 hours (Ref. 4). The sporostatic effect was reversible; washing away the compound restored the ability to germinate in the nutrient broth. It was suggested by the authors that this compound blocks the inherent triggering process of the bacterial spores to germinate.

No information was found on the effects of TMBP on terrestrial plants.

IV. Negotiated Testing Program

The Octylphenol Program Panel (the Panel) and the Agency began discussions in February, 1983, regarding testing needs for TMBP. The panel consisted of a representative of each of the major domestic TMBP manufacturers and is organized under the auspices of the Chemical Manufacturers Association. Subsequent to the initial discussions, the Panel submitted protocols (Ref. 34) for an initial minimum set of aquatic toxicity tests. These test protocols included flow-through, acute toxicity testing for four freshwater species: *Daphnia magna, Lepomus macrochirus* (bluegill sunfish), *Salmo gairdneri* (rainbow trout), and *Selenestrum capricornutum* (a green alga).

The protocols for these studies have been reviewed by EPA and are believed

to be a reasonable approach to characterizing the aquatic toxicity of TMBP. The Agency also believes that these studies on freshwater plants and animals could be used to reasonably determine the need to test TMBP's toxicity on marine plants and animals in the future should significant releases of TMBP to the marine environment occur. The Agency and the Panel agree that results for these acute toxicity studies for TMBP will be utilized in determining the need to initiate chronic toxicity studies. The basis for requiring chronic toxicity testing, and to which the Octylphenol Program Panel agreed, will depend on EPA's interpretation of the dose-response curve for each study, the observational recordings of the test organism's activities during dosing in each study, and the 96-hour LC_{50} determined in each aquatic toxicity study. EPA believes that 96-hour LC_{50}'s below 1ppm are of special concern and would most likely trigger chronic toxicity testing. LC_{50}'s greater than 1 ppm, however, may require a more in-depth analysis of the data. If the Agency finds that chronic effects testing is needed in one or all of the acute toxicity test species, the Panel will initiate testing in accordance with EPA's aquatic testing guidelines.

The documentation supporting this agreement and the testing protocols are available for examination in the public record for this proceeding. Testing will be initiated within 3 months after EPA announces final acceptance of the test program. The Panel anticipated having final reports available for Agency review on the acute tests within 4 months after initiation of testing. Representatives of the Panel will then be prepared to meet with EPA to discuss the significance of the test results and the need for further aquatic testing. The Panel will file periodic reports with EPA to keep the Agency informed of the Status of the testing program.

The Octylphenol Program Panel has furnished EPA with the name and address of the laboratory that would conduct these tests. The Panel has stated that it will adhere to the Good Laboratory Practice Standards (GLP's) issued by the U.S. Food and Drug Administration, as published in the Federal Register of December 22, 1978 [43 FR 69986]. The Panel also has agreed to laboratory audits/inspections in accordance with the authority and procedures outlined in TSCA section 11 at the request of authorized representatives of the EPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw date and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practices.

The Panel has further committed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained for at least 10 years from the date of publication of the acceptance of a negotiated testing agreement. In addition, correspondence and other doucments relating to the interpretation and evaluation of data shall also be retained.

The Agency plans to issue in the Federal Register a notice of the receipt of all test data submitted by industry under this test program. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Should industry fail to conduct the testing according to the specified protocols or fail to follow Good Laboratory Practices, such actions may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

V. Decision Not To Initiate Rulemaking

When combined with existing data on TMBP, TMBP-based surfactants and other alkyl phenols, EPA believes the industry's proposed testing program will provide adequate basis to evaluate the effects of concern to the ITC. Therefore, EPA is not initiating relemaking under sectin 4(a) of TSCA to require testing of TMBP at this time. EPA's specific responses to the ITC's recommendations are set forth below.

A. Health Effects

1. *Short-term tests.* Under the TSCA section 8(d) reporting rule for health and safety data, the Agency has received studies on TMBP which addresses the health effects testing recommendation of the ITX i.e., short-term tests including mutagenicity. Although the Agency believes that an Ames test alone normally does not provide sufficient data to adequately characterize the mutagenic potential of a chemical, EPA cannot conclude from the available information that there is reason to believe TMBP is mutagenic. Therefore, because EPA does not find that there is substantial exposure to TMBP and because there is no basis to believe TMBP may present an unreasonable risk of mutagenicity, EPA is not requiring further mutagenicity testing of TMBP.

2. *Subchronic effects.* Although not specifically recommended by the ITC, EPA believed that a well-conducted subchronic test would provide information on leucoderma which was noted in the ITC report, and other chronic toxic effects which might occur as a result of repeated occupational exposure to TMBP. EPA received a subchronic study (Ref. 31) from Mobay Chemical Corporatrion in response to the section 8(d) rule. This study, as noted in Unit III above, showed that TMBP exhibited low toxicity over a 90-day exposure period. EPA believes that there is no basis to believe that TMBP may present an unreasonable risk of any significant toxic effect and, therefore, no further testing is required.

B. Environmental Effects

EPA believes that the results of the environmental effects testing negotiated with the Octylphenol Program Panel are likely to provide sufficient data to reasonably predict the acute toxicity of TMBP to aquatic plants and animals, and serve as a basis for determining the need for continued aquatic toxicity testing of this chemical. Furthermore, the Agency and the Panel agree that any additional testing should not be initiated until EPA has had a chance to fully evaluate data from the testing being proposed and discuss with the Panel any additional testing needs.

Little information was available on the transport properties of TMBP. However, TMBP is expected to exhibit the properties of a lipophilic phenol; it has an experimentally determined log P (octanol/water) value of 3.7 (Ref. 5), and both its water solubility and its vapor pressure are low. Thus, the chemical would likely bind to organic materials in soils and potentially bioconcentrate in fat tissues of aquatic and terrestrial animals.

No information was available on the volatility of TMBP from water. Because experimentally derived data were not available on the vapor pressure of TMBP at 20°-25°C, a half-life for evaporation from water cannot be estimated; but, due to the low calculated vapor pressure, the compound would not be expected to evaporate rapidly. No detectable amount of the pure compound was reported to volatilize into the air (Ref. 1). No data were found in the available literature on the soil adsorption of TMBP, but the soil organic matter/water partition coefficient of the compound was calculated based on the log P value of 3.7. From these calculations, the compound may be expected to bind to soils when in the environment (Ref. 35).

The Agency can reasonably predict the chemical fate, including biodegradation, of TMBP. The ITC cited environmental concentration of 5 ppm for TMBP (Ref. 23). It recommended chemical fate testing based on its inability to predict the fate of TMBP at this high concentration. However, this concentration was reported for wastewater not a river. The actual river concentration, i.e., 1–2 ppb, of TMBP was 2,500–5,000 times lower than that reported by the ITC. The Agency believes that TMBP may be susceptible to biodegradation and other chemical fate processes based on a demonstration that there was a 50 percent reduction in total octylphenol concentrations i.e., from 400 to 200 ppm, between wastewater treatment influent and effluent levels (Ref. 23). Therefore, the Agency believes that chemical fate testing of TMBP should not be required at this time.

VI. References

(1) Schenectady Chemicals, Inc. 1981. P.O. Box 1046, Schenectady, NY 12301. Information on 4-(1,1,3,3-tetramethylbutyl)phenol. Letter with attachments from R. P. Yunick to G. Parris, Enviro Control, Inc., Rockville, MD 20852.

(2) Rohm and Haas Company. 1975. Product literature. Alkylphenols. CO–50 L/ca. Independence Mall West, Philadelphia, PA 19105.

(3) Ikeda, M., Hirayama, T., Watanabe, T., Hara, I. 1978. GLC analysis of alkylphenols, alkylcatechols and phenylphenols in the urine of workers as a measure to prevent occupational leucoderma. Int. Arch. Occup. Environ. Health 41 (2): 125–138.

(4) Lewis, J. C., and Jurd, L. 1972. "Sporostatic action of cinnamylphenols and related compounds on *Bacillus megaterium*. In: Spores, Vol. 5. Halvorson," HO, Hanson R, Campbell LL, eds. Washington, DC: American Society for Microbiology, pp. 384–389.

(5) McLeese, D. W., Zitko, V., Sergeant D. B., Burridge L., and Metcalfe C. D. 1981. Lethality and accumulation of alkylphenols in aquatic fauna. Chemosphere 10(7): 723–730.

(6) Kirk-Othmer. 1978. Reed, H. W. B. Alkylphenols. In: Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed., vol. 2. New York: Wiley-Interscience, pp. 72–96.

(7) Rohm & Haas. 1982. Product literature. Technical data on Triton surface-active agents. CS–40 10/82. Rohm & Haas, Co., Independence Mall West, Philadelphia, PA 19105.

(8) Windholz, M. 1976. Benzethonium chloride. In: The Merck Index, 9th ed. Rahway, NJ: Merck & Co., Inc., p. 139.

(9) USEPA. 1982. U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances. Computer printout: producers and importers of chemicals in the nonconfidential initial TSCA inventory. Retrieved 1982. Washington, DC: U.S. Environmental Protection Agency.

(10) TSCA–ITC. 1982. TSCA Interagency Testing Committee. Eleventh report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. Washington, DC: U.S. Environmental Protection Agency. October 1982.

(11) Chemical Manufacturers Association. 1983 (April 12). Chemical Manufacturers Association, Octylphenol Program Panel, Proposed Voluntary Test Program on 4-(1,1,3,3-Tetramethylbutyl)phenol. Washington, DC.

(12) Kirk-Othmer. 1963. Preston, R. W. G. and Reed, H. W. B. Alkylphenols. In: Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed., vol. 1. New York: Wiley-Interscience, pp. 901–916.

(13) Whitehouse, A. A. K. 1967. Phenolic Resins. London: Iliffe Books Ltd., pp. 64–72, 104.

(14) USITC–IBC. 1977. U.S. International Trade Commission. Imports of benzenoid chemicals and products, 1975. Washington, DC: U.S., Government Printing Office. USITC pub. 806.

(15) Smyth, H. F. and Calandra, J. C. 1969. Toxicology studies of alkylphenol polyoxyethylene surfactants. Toxicol. and Applied Pharmacol. 14:315–334.

(16) Rohm and Haas Company. 1961. Toxicologic study on the effect of adding OPE–40 to the diet of rats in 5 percent concentration for a period of 3 months.

(17) Goldhammer, H., McManus, W.R. 1960. Effects of non-ionic surfactants upon animal tissues. Nature 11:317–318.

(18) Goldhammer, H., McManus, W.R., Osborn, R.A. 1967. Effects on the reproductive organs of feeding the non-ionic surfactant Triton X–100 to mice. J. Pharm. Pharmac. 19:167–169.

(19) Goldhammer, H., McManus, W.R., Osborn, R.A. 1970. The effect of a range of Triton non-ionic surfactants on rodent ovaries. J. Pharm. and Pharmac. 22:668–671.

(20) Larson, P.S., Borzelleca, J.P., Bowman, E.R., Crawford, E.M. Smith, R.B., Hennigar, G.R. 1963. Toxicologic studies on preparation of p-tert-octylphenoxy-polyethoxy ethanols (Triton X–405). Toxicol. and Applied Pharmacol. 5:782–788.

(21) Coppinger, W.J., Brennan, S.A., and Thompson, E.D. 1981. Testing of surfactants for mutagenic potential in the L5178 TK +/− mouse lymphoma assay. Environ. Mutagenesis: 3:320.

(22) Sheldon, L.S., Hites, R.A. 1978. Organic compounds in the Delaware River. Environmental Science Technology 12(10): 1188–1194.

(23) Sheldon, L.S., Hites, R.A. 1979. Sources and movement of organic chemicals in the Delaware River. Environmental Science Technology 13(5): 574–579.

(24) Ikeda, M., Hirayama, T., Watanabe, T., Hara, I. 1978. GLC analysis of alkylphenols, alkylcatechols and phenylphenols in the urine of workers as a measure to prevent occupational leucoderma. Int. Arch. Occup. Environ. Health 41(2):125–138.

(25) Koster, H., Scholtens, E., Mulder, G.J. 1979. Inhibition of sulfation of phenols *in vivo* by 2,6-dichloro-4-nitrophenol: selectivity of its action in relation to other conjugations in the rat *in vivo*. Med. Biol. 57:340–344.

(26) Hara I., Nakajima T. 1969. Studies on the leucoderma caused by alkylphenols. Proc. Int. Cong. Occup. Health, 16th, 1969:635–637.

(27) Kel-man, G.Y., Mashbits, F.D., Eisengart, R.S. 1967. Comparative toxicological and hygienic assessment of four chemical additives for rubber. Sov. Rubber Technol. (Engl Transl) 26(9):29–30.

(28) NIOSH. 1982. National Institute for Occupational Safety and Health. Computer printout: RTECS (Registry of Toxic Effects of Chemical Substances data base). Retrieved Dec. 6, 1982. Washington, DC: NIOSH, U.S. Department of Health and Human Services.

(29) Rohm and Haas Company. 1975. Product literature. Alkylphenols CO–50 L/ca. Independence Mall West, Philadelphia, PA 19105.

(30) Malten, K.E., Seutter, E., Hara, I., Nakajima, T. 1971. Occupational vitiligo due to paratertiary butylphenol and homologues. Trans. St. John's Hosp. Dermatol. Soc. 57:115–134.

(31) Suberg, H., Loser, E., Kaliner, G. 1982. Isooctylphenol. Subchronic toxicological experiments with rats (feeding experiment over a period of 3 months). Wuppertal, Germany: Institute for Toxicology, Bayer AG. Report No. 10733, Copy No. 8. (In German: English translation).

(32) Boutwell, R.K., Bosch, D.K. 1959. The tumor-promoting action of phenol and related compunds for mouse skin. Cancer Res. 19: 413–424.

(33) Herbold, B. 1982 (October 14). *Salmonella*/Mikrosomen Test Zur Untersuchung Auf Punktmutagene Wirkung. Bayer AG. Institut Fuer Toxikologie. Bericht Nr. 11209 Exemplar Nr. 15.

(34) Chemical Manufacturers Association. 1983 (June 14). Additional Comments on the Octylphenol Program Panel's Proposed Voluntary Testing Program of 4(1,1,3,3-Tetramethylbutyl)phenol. Washington, DC.

(35) Briggs, G.G. 1973. A simple relationship between soil adsorption of organic chemicals and their octanol/water partition coefficients. Proc. Br. Insectic. Fungic. Conf. (1973): 83–86.

VII. Public Record

The EPA has established a public record for this testing decision [Docket Number OPTS–42042]. This record includes:

(1) **Federal Register** notice containing the designation of TMBP to the priority list and all comments on TMBP received in response to that notice.

(2) Communications with industry.

(3) Letters.

(4) Contact reports of telephone conversations.

(5) Meeting summaries of agency industry and agency-public meetings.

(6) Testing proposal.

(7) Published and unpublished data.

This record contains the basic information considered by the Agency in developing the decision given in this publication. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2061))

Dated: November 3, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-30720 Filed 11-14-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Objections to Proposed Remedial Orders Filed; Period of September 26 Through October 14, 1983

During the period of September 26 through October 14, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 7, 1983.

Pester Corporation, Des Moines, Iowa, HRO-0195, Motor Gasoline

On October 11, 1983, Pester Corporation, 303 Keosauqua Way, P.O. Box 10006, Des Moines, Iowa, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City (Missouri) Office of Enforcement issued to the firm on August 30, 1983. In the PRO, the Kansas City Office of Enforcement found that during the period January 1, 1977, through January 31, 1980, Pester Corporation charged prices in excess of maximum lawful selling prices in its sales of motor gasoline. According to the PRO, the Pester Corporation violation resulted in $1,483,074 of overcharges.

Southwestern Gulf Petroleum Co., Houston, Texas, HRO-0194, Crude Oil

On October 11, 1983, Southwestern Gulf Petroleum Co., 13101 Northwest Freeway, Suite 320, Houston, Texas 77040, and the Attorney General for the State of Texas, P.O. Box 12548, Capital Station, Austin, Texas 78711, filed Notices of Objection to a Proposed Remedial Order which the DOE Houston, Texas Office of Enforcement issued to the firm on September 1, 1983. In the PRO the Houston, Texas Office found that during April to December 1980, Southwestern Gulf Petroleum violated 10 CFR 212.183, 212.186, 210.62 and 205.202 in its sales of crude oil. According to the PRO the Southwestern Gulf Petroleum Company's violation resulted in $12,678,118.76 of overcharges.

[FR Doc. 83-30781 Filed 11-14-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRI-2469-6]

National Drinking Water Advisory Council; Open Meeting

Under Section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held at 9:00 a.m. on December 1, 1983, and at 8:30 a.m. on December 2, 1983, at the Langford Resort Hotel, Treetop Room, 300 East New England Avenue, Winter Park, Florida 32789. Council subcommittees will be meeting at the Hotel on November 30, 1983.

The purpose of the meeting will be to review the Advance Notice of Proposed Rulemaking on the revised regulations, a review of the Council's position on the fluoride standard in view of a second report from the Surgeon General (if received), and EPA updates on the reauthorization of the Safe Drinking Water Act, development of a ground water policy, and Federal implementation of the Underground Injection Control program in twenty-three States.

This meeting will be open to the public. The Council encourages the hearing of public statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to 5 minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 382-5533. The petition should include the topic of the proposed statement, the petitioner's telephone number, and should be received by the Council before November 23, 1983.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Executive Assistant, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The telephone number is: Area Code 202/382-5533.

Dated: November 4, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-30723 Filed 11-14-83; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2469-5]

Science Advisory Board; Closed Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of an ad-hoc Subcommittee on the Science Advisory Board will be held in Denver, Colorado on December 1, 1983 to determie the recipients of the Agency's 1983 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

Pursuant to section 10(d) of the U.S.C. Appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgments on those employees whose published research results are deserving of a cash award as well as those that are not. In addition, the Board will advise on the amount of money to be allocated for each award. Discussions of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under Section 10(d) of Title 5, U.S. Code, Appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. Appendix 1, seciton 10(d).

Dated: November 7, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-30722 Filed 11-14-83; 8:45 am]

BILING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Collection
Title: Integrated Emergency Management System—Multi-Year Development Plan

Abstract: The Multi-Year Development Plan (MYDP) will provide a planning framework within which State/local governments can schedule and target funding for development projects aimed at improving existing emergency management capability. The MYDP will provide FEMA with consistent data nationwide for setting priorities, allocating resources, and justifying budget requests.

Type of respondents: State or Local Governments
Number of respondents: 56
Burden hours: 1,400

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C Street, SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: November 4, 1983.

Walter A. Girstantas,

Assistant Associate Director, Administrative Support.

[FR Doc. 83-30717 Filed 11-14-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-693-DR]

Amendment to Notice of Major-Disaster Declaration; Oklahoma

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Oklahoma (FEMA–693–DR), dated October 26, 1983 (48 FR 50792, November 3, 1983) and related determinations.

DATED: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice

The notice of a major disaster for the State of Oklahoma dated October 26, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 26, 1983:

The Counties of Caddo, Cleveland, Comanche, Cotton, Grady, Jackson, Jefferson, Lincoln, McClain, Pottawatomie, Stephens and Tillman for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02.)

Joe D. Winkle;

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-30719 Filed 11-14-83; 8:45 am]

BILLING CODE 6718-01-M

FEMA Advisory Board; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, announcement is made of the following working committee meeting:

Name: Federal Emergency Management Agency Advisory Board
Date of Meeting: November 29, 1983
Time: 9:00 a.m. to 5:30 p.m.
Place: Federal Emergency Management Agency, Room 401, 500 C Street, SW, Washington, DC 20472

Purpose: Internal classified discussions on progress of the four Ad Hoc Task Forces. The views of the Board will be discussed with the Director of FEMA and representative of the Office of the President.

The Director has determined that the Board meeting should be closed because disclosure is likely to reveal matters that are specifically authorized to be kept Secret in the interest of national defense or foreign policy and are properly classified pursuant to Executive Order.

Bernard A. Maguire,

Associate Director, National Preparedness Programs.

[FR Doc. 83-30718 Filed 11-14-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-52]

Matson Agencies, Inc. and Matson Freight Agencies, Inc.; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by Matson Agencies, Inc. and Matson Freight Agencies, Inc., both of whom are steamship agents, seeking that the Commission determine that neither is a common carrier by water or other person under section 1 of the Shipping Act, 1916. An alleged uncertainty arises because of the affiliation of both petitioners with both Matson Navigation Company, Inc., a common carrier, and Matson Treminals, Inc., which is another person under the Shipping Act, 1916. Both petitioners provide steamship agency services exclusively and believe that they are not common carriers or other persons unless so deemed due to the aforementioned affiliation.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors' complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before December 5, 1983. An orignial and fifteen copies shall be submitted and a copy served on the filing party, Peter P. Wilson, Esquire, Matson Navigation Company, 333 Market Street, P.O. Box 7452 San Francisco, California 94120. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 83-30724 Filed 11-14-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Federal Reserve Bank of Atlanta et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C.

1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Pan American Banks Inc.*, Miami, Florida; to acquire at least 80 percent of the voting shares or assets of International Bank of Miami, N.A., Miami, Florida. Comments on this application must be received not later than November 29, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Mid-America Bancshares, Inc.*, Plesant Hill, Missouri; to acquire at least 66.11 percent of the voting shares of Citizens Bank of Norborne, Norborne, Missouri. Comments on this application must be received not later than November 30, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *North Texas Bancshares, Inc.*, Fort Worth, Texas; to acquire at least 100 percent of the voting shares of Hurst National Bank, Hurst, Texas, a proposed new bank. Comments on this application must be received not later than November 30, 1983.

2. *Southwest Bancshares, Inc.*, Houston, Texas; to acquire at least 100 percent of the voting shares of Southwest Texas Bankers, Inc., San Antonio, Texas and its wholly-owned banking subsidiary, San Antonio Bank and Trust, San Antonio, Texas. Comments on this application must be received not later than December 8, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *United Texas Financial Corporation.*, Wichita Falls, Texas; to acquire 100 percent of the voting shares of The Farmers and Merchants National Bank, Nocona, Texas. This application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than December 8, 1983.

Board of Govenors of the Federal Reserve System, November 8, 1983.

James McAfee,

Associatae Secretary of the Board.

[FR Doc. 83-30669 Filed 11-14-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities; Federal Reserve Bank of Cleveland et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1)), of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, 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 comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (insurance activities; Pennsylvania and Delaware): To expand the geographic scope of the sale of credit-related insurance including credit-accident and health, credit-life, and mortgage redemption insurance (such sale of credit-related insurance being a permissible activity under subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from an office in Pittsburgh, Pennsylvania, serving the States of Pennsylvania and Delaware. Comments on this application must be received not later than December 6, 1983.

2. *Mellon National Corporation*, Pittsburgh, Pennsylvania (commercial lending and leasing; United States): To engage through its indirect subsidiary, Mellon Financial Services Corporation, in commercial lending including accounts receivable and inventory financing, and permissible personal property leasing, including acting as agent, broker, or adviser in leasing such property. These activities would be conducted from an office in Dallas, Texas, serving the entire United States. Comments on this application must be received not later than December 7, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Flagler Bank Corporation*, West Palm Beach, Florida (mortgage lending and servicing activities; Florida): To engage through its subsidiaryk, The Flagler Mortgage Company of the Palm Beaches, in generation and sale of residential and commercial mortgages of all type including VFA, VA and FHA mortagages. These activities would be performed from an office in West Palm Beach and will serve the State of Florida. Comments on this application must be received not later than November 30, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Brenton Banks, Inc.*, Des Moines, Iowa (data-processing activities, Iowa): To engage, through its subsidiary, Brenton Funds Transfer System, Inc., in processing financial, banking or economic data for persons other than the holding company or its subsidiaries pursuant to written agreements. These activities would be conducted from an office in Des moines, Iowa, serving the State of Iowa. Comments on this application must be received not later than December 2, 1983.

Board of Governors of the Federal Reserve System, November 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-30671 Filed 11-14-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Federal Reserve Bank of Kansas City et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *P.N.B. Financial Corporation,* Kingfisher, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples National Bank, Kingfisher, Oklahoma. Comments on this application must be received not later than November 30, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Bremar International Limited, Bremar Holdings Limited,* and *Bremar America Limited,* all of London, England and *Bremar Banking Corporation,* New York, New York; to become bank holding companies by acquiring at least 50.1 percent of the voting shares of The Bank of Long Island, N.A., East Islip, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than December 8, 1983.

2. *Citizens National Corporation,* Paintsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Paintsville, Paintsville, Kentucky. Comments on this application must be received not later than December 8, 1983.

Board of Governors of the Federal Reserve System, November 8, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-30670 Filed 11-14-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Executive Committee of the Advisory Committee on Preservation will meet on December 12, 1983 from 10:00 a.m. to 4:00 p.m. in Room 105 of the National Archives Building, Washington, D.C.

The agenda for the meeting will be:

1. Review of draft recommendations concerning preservation policies and practices at the National Archives.

2. Develop plans for a preservation technology conference.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: November 7, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-30624 Filed 11-14-83; 8:45 am]

BILLING CODE 6820-26-M

National Archives Advisory Council; Meeting

Notice is hereby given that the National Archives Advisory Council will hold its semi-annual meeting December 1, 1983 from 9:00 a.m. to 5:30 p.m. in Room 105 and December 2, 1983 from 9:00 a.m. to noon in Room 410, National Archives Building, 8th and Pennsylvania Avenue, NW., Washington, D.C. 20408. the meeting will be devoted to a review of the current state of the Archives, reports from NARS task forces, and related matters of concern to the operation of the National Archives and Records Service of the United States.

The meeting will be open to the public.

Dated: November 9, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-30849 Filed 11-15-83; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary, HHS.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: December 1, 1983, 1:00 to 4:00 p.m.

ADDRESS: Hubbard Hall, U.S. Naval Academy, Annapolis, Md.

FOR FURTHER INFORMATION CONTACT: Dr. C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, 450 5th St., NW., Suite 7103, Washington, D.C. 20001.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order 12399 dated December 31, 1982. The functions of the Council are: 1. To advise the President and the Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and the Secretary, as necessary, actions to accelerate progress; 2. Advise the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports activities; 3. Advise the Secretary on State, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the Council members of the 10-point national program of physical fitness and sports; to report on on-going Council programs; and to plan for future directions.

Dated: November 7, 1983.

C. Carson Conrad,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 83-30706 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-17-M

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

Corrrection

In 48 FR 50167, of the issue of Monday, October 31, 1983, the time of the meeting of the Advisory Council on December 4 was given as 9:00 a.m. to 4:00 p.m. That meeting will be held, instead, from 12:00 Noon to 6:00 p.m.

Thomas R. Burke,

Executive Director.

[FR Doc. 83-30714 Filed 11-14-83; 8:45 am]

BILLING CODE 4120-03-M

Centers for Disease Control

System Safety Analysis of High Risk Construction Activities, Case-Control Study of Lung Cancer and Diesel Fumes; Meeting

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

System Safety Analysis of High Risk Construction Activities

Date: November 29, 1983.
Time: 9:00 a.m. to 12 noon.
Place: Room S-120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.
Purpose: To discuss the research protocol of a project on the indentification of high risk activities within the roofing industry and the development of appropriate countermeasures to reduce the risks of injury.

Additional information and copies of the research protocol may be obtained from: Tom Parsons, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505. Telephones: FTS: 923-4454. Commercial: 304/291-4454.

Case-Control Study of Lung Cancer and Diesel Fumes

Date: December 12, 1983.
Time: 9:30 a.m. to 4:00 p.m.
Place: Conference Room C, 5555 Ridge Avenue, Cincinnati, Ohio 45202.
Purpose: To discuss the protocol for an epidemiologic study of lung cancer and diesel fumes.

Additional information may be obtained from: Kyle Steenland, Ph.D Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephones: FTS: 684-2761. Commercial: 513/684-2761.

Dated: November 8, 1983.

Jeffrey P. Koplan,

Acting Director, Centers for Disease Control.

[FR Doc. 83-30733 Filed 11-4-83; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 83F-0355]

National Food Processors Association; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that National Food Processors Association has filed a petition proposing that the food additive regulations be amended to provide for the safe use of all olefin polymers regulated in 21 CFR 177.1520 as food contact surfaces in aseptic packaging systems employing hydrogen peroxide as a sterilant.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown , Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3759) has been filed by National Food Processors Association, 1401 New York Ave., NW., Washington, DC 20005, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of all olefin polymers regulated in 21 CFR 177.1520 as food contact surfaces in aseptic packaging systems employing hydrogen peroxide as a sterilant.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 4, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-30705 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F-0152]

SSC Industries Inc.; Withdrawal of Petition for Food Additive

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the withdrawal without prejudice of the petition (FAP 7A3315) proposing that the food additive regulations be amended to provide for the safe use of oxidized polyethylene as a component of defoamer formulations employed in the processing of nutrient supplements such as edible protein.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.1 *Petitions* (21 CFR 171.1), FDA has withdrawn the petition (FAP 7A3315) filed by SSC Industries, Inc., P.O. Box 90987, East Point, GA 30344. The notice of filing, published in the **Federal Register** of June 5, 1981 (46 FR 30198), proposed that the food additive regulations be amended to provide for the safe use of oxidized polyethylene as a component of defoamer formulations employed in the processing of nutrient supplements such as edible protein.

The petitioner was notified in a letter of May 13, 1982, that consideration of the petitioned use of oxidized polyethylene would require the submission and evaluation of specific additional data to support such use. Because the required information has not been submitted, the petition is now considered by the agency to be withdrawn without prejudice in accordance with § 171.1(j) (21 CFR 171.1(j)), which requires that such requested information be submitted within 180 days after filing of the petition or it will be considered withdrawn without prejudice. Future consideration of the use of oxidized polyethylene will require the submission of a new food additive petition.

Dated: November 4, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-30704 Filed 11-14-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Advisory Board and Board Subcommittees; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board and its Subcommittees, November 27–30, 1983, National Cancer Institute, Building 31, C Wing, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. The Board meeting and the Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205; (301/496–5708) will furnish summaries of the meetings and rosters of members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205; (301/496–5147) will furnish substantive program information.

Name of Committee: *National Cancer Advisory Board.*

Dates of Meeting: November 28–30, 1983

Place of Meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health.

Open:

November 28, 8:30 a.m.—recess;
November 29, 8:30 a.m.—recess; and
November 30, 8:30 a.m.—adjournment

Agenda: Report of the Director, National Cancer Institute; Program Reviews; and scientific presentations.

Name of Committee: *Subcommittee on Organ Systems Program.*

Date of Meeting: November 27, 1983.

Place of Meeting: Building 31, C Wing, Room 8, National Institutes of Health.

Open: November 27, 6:00 p.m.—adjournment.

Agenda: To discuss the Organ System Program.

Name of Committee: *Subcommittee on Activities and Agenda.*

Dates of Meeting: November 28, 1983.

Place of Meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health.

Open: November 28, 5:00 p.m.—adjournment.

Agenda: To discuss administrative details and plan the agenda and activities for the Board Meeting in January-February 1984.

Name of Committee: *Subcommittee for the Review of Contracts and Budget of the Office of the Director.*

Dates of Meeting: November 28, 1983.

Place of Meeting: Building 31, C Wing, Conference Room 9, National Institutes of Health.

Open: November 28, 5:00 p.m.—adjournment.

Agenda: Concept review of Office of the Director contracts for approval/disapproval and to review the Office of the Director budget.

Dated: November 7, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-30707 Filed 11-14-83; 8:45 am]

BILLING CODE 4140-01-M

Advisory Committee to the Director, NIH; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on December 14, 1983, at the National Institutes of Health, Bethesda, Maryland 20205. The meeting will take place from 8:30 a.m. to approximately 5:30 p.m. in Building 31, Conference Room 6, C Wing. The meeting will be open to the public.

The purpose of the meeting is to review issues pertaining to research manpower development. The Committee will discuss the 1983 report of the National Academy of Sciences' Committee on a Study of National Needs for Biomedical and Behavioral Research Personnel. Also to be discussed are the implications of trends in research training support and appropriate mix of manpower development mechanisms.

The Executive Secretary, Michael I. Goldberg, Ph.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland, 301–496–3152, will furnish summaries of the meeting, rosters of Committee members and consultants, and substantive program information.

Dated: November 7 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

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

BILLING CODE 4140-01-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, December 1, 1983, at the National Institutes of Health, 9000 Rockville Pike, Building 31–A, Conference Room 3, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Director, National Cancer Institute and the Chairman, President's Cancer Panel. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205; (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205; (301/496–1148) will furnish substantive program information.

Dated: November 7, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-30708 Filed 11-14-83; 8:45 am]

BILLING CODE 4140-01-M

Cancer Resources and Repositories Contracts Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Resources and Repositories Contracts Review Committee, National Cancer Institute, National Institutes of Health, November 22, 1983, Building 31, Conference Room 7, Bethesda, Maryland 20205. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 22, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Margaret Holmes, Executive Secretary, Cancer Resources and Repositories Contract Review Committee, National Cancer Institute, Westwood Building, Room 805–A, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7421) will furnish substantive program information.

Dated: November 7, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-30829 Filed 11-14-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Moab District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Moab District Grazing Advisory Board will be held on December 15, 1983. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management District Office at 125 West Second South in Moab, Utah.

The agenda for the meeting will include:

1. FY 84 project status.
2. Range Improvement Policy and how it relates to the Grazing Advisory Board.
3. Briefing on the Final Grand RMP.
4. A discussion of Wilderness Areas as they relate to grazing.
5. Status Report on the Hatch Cooperative Management Plan.
6. Advisory Board discussion on the status of the State return money projects.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:00 p.m. and 3:00 p.m. on December 15, 1983, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532, by December 12, 1983.

Summary minutes of the Board meeting will be maintained in the District Office and will be available within thirty (30) days following the meeting.

Dated: November 3, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83-30702 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

[AZAZ012000004]

Arizona; Realty Action Competitive Sale of Public Land in Mohave County

The lands described below have been examined and through the development of the Vermillion Management Framework Plan were found proper for disposal. They will be offered for sale under the provisions of Sec. 203(a) of the Federal Land Policy and Management Act (90 Stat. 2750; 43 U.S.C. 1713).

Gila and Salt River Meridian, Arizona

Parcel C: T. 41 N., R. 5 W.
Sec. 20. W½N/W¼, 80 acres.
Parcel L: T. 40 N., R. 7 W.
Sec. 6, S½ NE¼, 80 acres.

These lands will not be sold for less than their appraised fair market value. Payment of the purchase price must be made on or before January 19, 1984. In order to avoid dislocation of existing users, each parcel will be offered by direct sale to the adjoining land owners listed below:

Parcel C:
Carolyn B. Ballard
Larry A. Ballard
Daisy Ballard c/o Tim Ballard

Parcel L:
Orson Garry Pearce and L. LaVar and Sherwon C. Foremaster

Upon publication of this Notice in the **Federal Register** as provided in 43 CFR 2440.4, the land described above will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of termination notice in the **Federal Register** Prior to the expiration of the two-year period.

The grazing privileges will be cancelled on the above described lands when the patent is issued. The land will be sold subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the United States under the authority of the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).
2. Oil and gas will be reserved to the United States.
3. Valid existing rights.
Parcel C: 4. Oil and Gas Lease A 10985 to SOCO.
Parcel L: 4. Oil and Gas Lease A 8707 to Esdras K. Hartley.

The lands have no known values for locatable or saleable minerals, therefore the mineral interests except oil and gas will be offered for sale to the respective purchaser who will be required to deposit a $50 nonreturnable application fee (43 CFR 2720.1-2(c)).

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments 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 the final determination of the Department of the Interior.

Dated: November 7, 1983.

G. William Lamb,

District Manager.

[FR Doc. 83-30738 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

[AZAZ012000003]

Arizona; Realty Action Non-Competitive Sale of Public Land in Coconino County

The lands described below have been examined and through the development of the Vermillion Management Framework Plan were found proper for disposal. They will be offered for sale under the provisions of Sec. 203(a) of the Federal Land Policy and Management Act (90 Stat. 2750; 43 U.S.C. 1713).

Gila and Salt River Meridian, Arizona

T. 41 N., R. 2 W.
Sec. 28 S1½NE¼, 80 acres.

This land will not be sold for less than its appraised fair market value, and the purchaser will be required to pay the purchase price on or before January 20, 1984.

In order to avoid dislocation of the existing user and meet the needs of the existing sawmill operation the land will be offered by direct sale to the adjoining landowner, Kaibab Industries.

Upon publication of this Notice in the **Federal Register** as provided in 43 CFR 2440.4, the land described above will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The land will be sold subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the United States under the authority of the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).
2. Oil and gas will be reserved to the United States.
3. Valid existing rights.
4. Oil and Gas Lease A18501 to J. H. Trigg effective July 1, 1983.
5. Two years continued grazing by the present permittee after receipt of this notice.

The lands have no known values for locatable or saleable minerals, therefore

the mineral interests except oil and gas will be offered for sale to the purchaser who will be required to deposit a $50 nonreturnable application fee (43 CFR 2720.1–2(c)).

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments 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 the final determination of the Department of the Interior.

Dated: November 7, 1983.

G. William Lamb,

District Manager.

[FR Doc. 83-30739 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

[AZAZ012000002]

Arizona; Realty Action Competitive Sale of Public Land in Mohave County

The land described below have been examined and through the development of the Vermillion Management Framework Plan were found proper for disposal. They will be offered for sale under the provisions of Sec. 203(a) of the Federal Land Policy and Management Act (90 Stat. 2750; 43 U.S.C. 1713).

Gila and Salt River Meridian, Arizona

T. 41 N., R. 6 W.
Sec. 31, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

The above-described land aggregates 280 acres, more or less, in Mohave County. This land cannot be sold for less than the appraised fair market value. The appraised value will not be disclosed until after a qualifying bid has been received. Final bids, if less than the fair market value will be rejected and the parcel will be reoffered as scheduled below.

The lands will be offered at public auction at 10:00 a.m., on January 19, 1984 at the Washington County Commission Chambers, 197 East Tabernacle Street, St. George, Utah. If not sold on that date the public auction will be reopened at the same time and place on January 26, 1984. If the lands remain unsold after the two public auctions, they will be available over-the-counter at the Arizona Strip District Office, 196 East Tabernacle, St. George, Utah, without further competition.

Purchasers must be citizens of the United States, 18 years of age or older. Additional information concerning the land, terms and conditions of the sale, and oral or sealed bidding instructions may be obtained from G. William Lamb, District Manager, 196 East Tabernacle, St. George, Utah 84770 or by calling (801) 673–3545.

Upon publication of this Notice in the **Federal Register** as provided in 43 CFR 2440.4, the land described above will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The land will be sold subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the United States under the authority of the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).
2. Oil and gas will be reserved to the United States.
3. Valid existing rights.
4. Subject to Oil and Gas Lease A 8717 to Esdras K. Hartley.
5. The authorized grazing permittee has waived his rights to continue grazing upon transfer of title.

The lands have no known values for locatable or saleable minerals, therefore the mineral interests except oil and gas will be offered for sale to the successful bidder. A bid will also constitute an application for conveyance of those mineral interests in the land. The declared high bidder will be required to deposit a $50 nonreturnable fee (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), immediately at the sale. Failure to deposit these sums will result in disqualification of the high bidder.

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments 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 the final determination of the Department of the Interior.

Dated: November 7, 1983.

G. William Lamb,

District Manager.

[FR Doc. 83-30740 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

[U-066]

Realty Action Lease, Public Land in Carbon County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Lease; Public Land in Carbon County, Utah.

This notice of Realty Action announces the proposed lease of 2,250.28 acres of public land in Carbon County, Utah under lease application U-52808. The following described lands, managed by the Bureau of Land Management, are contained within the application area. The lands have been determined to be suitable for leasing under Section 302 of the Federal Land Policy and Management Act of 1976 (43 USC 1732). The lands are located approximately 14 miles northeast of Price, Utah.

Salt Lake Base and Meridian, Carbon County, Utah

T. 13 S., R. 12 E.
Sec. 22, SE¼SE¼SW¼, S½SE¼
Sec. 23, NW¼SW¼
Sec 27, W½NE¼, W½
Sec. 28, S½N½NE¼, S½N½, S½NE¼ NW¼, SE¼NW¼NW¼, S½
Sec. 33, All
Sec. 34, W½
T. 14 S., R. 12 E,24Sec. 3, Lot 3, Lot 4, S½ NW¼24Sec. 4, E½ Lot 1, E½SE¼NE¼
Comprising 2250.28n acres.

Sunoco Energy Development Company, Lakewood, Colorado has applied for a long term lease of lands to be used for the construction, operation and maintenance of various facilities related to the Sage Point-Dugout Canyon mine complex. The complex would allow for underground mining of coal reserves of existing Federal coal leases. Facilties that would be located on the proposed leased lands include a water storage reservoir, water diversions, waste rock disposal site, conveyors, potable water and sewer pipelines, utility corridor and pollution control facilities. As proposed, the lease would be for 40 years.

Comments on the proposed lease may be submitted to the Price River Resource Area Manager at the below address, within 30 days of the publication of this notice. This realty action will become the final determination of the Department of the Interior unless adverse coments are received within the 30 days comment period. In the event adverse comments are received, they will be evaluated by the BLM Utah State Director who may vacate or modify this

realty action and will issue a final determination.

Detailed information concerning the proposed lease is available for review at the Price River Resource Area office at P.O. Drawer AB, 900 North 700 East, Price, Utah 84501.

Dated: November 7, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83-30730 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau Form Submitted to Office of Management and Budget for Review

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 forms 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: Offer to Lease and Lease for Oil and Gas
Bureau Form Number: 3100-11
Frequency: On occasion
Description of Respondents: General public, small businesses , and oil companies
Annual Responses: 25,000
Annual Burden Hours: 12,500
Bureau Clearance Officer (alternate): Linda Gibbs 202-653-8853

Dated: August 12, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-30742 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered and Threatened Species Listing and Recovery Priority Guidelines

Correction

In FR Doc. 83-25716 beginning on page 43098 of the issue of Wednesday, September 21, 1983, make the following correction: On page 43104, first column, Table 3 should read as set forth below:

Table 3. Recovery Priority

Degree of Threat	Recovery Potential	Taxonomy	Priority	Conflict
High	High	Monotypic genus	1	1C
	High	Species	2	2C
	High	Subspecies	3	3C
	Low	Monotypic genus	4	4C
	Low	Species	5	5C
	Low	Subspecies	6	6C
Moderate	High	Monotypic genus	7	7C
	High	Species	8	8C
	High	Subspecies	9	9C
	Low	Monotypic genus	10	10C
	Low	Species	11	11C
	Low	Subspecies	12	12C
Low	High	Monotypic genus	13	13C
	High	Species	14	14C
	High	Subspecies	15	15C
	Low	Monotypic genus	16	16C
	Low	Species	17	17C
	Low	Subspecies	18	18C

BILLING CODE 1505-01-M

Minerals Management Service

Information Collection Submitted to OMB for Review

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 information collection requirement and supporting documentation may be obtained by contacting Mario Rivero at (703) 860–7916. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503, with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Order No. 2, "Drilling Operations," submitted under plans, programs, procedures, and other narrative formats.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees performing drilling operations offshore.

Annual Responses: 2,368.

Annual Burden Hours: 23,422.

Dated: October 13, 1983.

Andrew V. Bailey,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-30744 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted to OMB for Review

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 materials may be obtained by contacting Terry Van Houten at (703) 860–6461. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs; Attention: Desk Officer for the Department of the Interior, Office of Management amd Budget, Washington, D.C. 20503; with copies of David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Surise Valley Drive; Reston, VA 22091.

Title: OCS Order No. 4 Submitted Under Plans, Programs, Procedures, and Other Narrative Formats.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Federal oil and gas lessees offshore, performing operations under OCS Order No. 4, "Determination of Well Producibility."

Annual Responses: 118.

Annual Burden Hours: 472.

Dated: October 25, 1983.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-30746 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted to OMB for Review

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 information collection requirement and supporting documentation may be obtained by contacting Mario Rivero at (703) 860–7916. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Order No. 13, "Production Measurement and Commingling" Submitted Under Plans, Programs, Procedures, and Other Narrative Formats.
Bureau Form Number: None.
Frequency: On occasion.
Description of Respondents: Federal oil and gas lessees performing production operations offshore.
Annual Responses: 15,540.
Annual Burden Hours: 31,680.

Dated: October 28, 1983.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-30737 Filed 11-4-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted to OMB for Review

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 information collected reqirement and supporting documentation may be obtained by contacting John Mirabella at (703) 860-7916. Comments and suggestions on the collection of information should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Divison; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: OCS Order No. 9, "Oil and Gas Pipelines," Submitted Under Plans, Programs, Procedures, and Other Narrative Formats.
Bureau Form Number: N/A.
Frequency: Various.
Description of Respondents: Federal Oil and Gas Lessees on the Outer Continental Shelf who construct or operate pipelines which fall under the jurisdiction of the Minerals Management Service.
Annual Responses: 3,700.
Annual Burden Hours: 58,900.

Dated: November 3, 1983.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-30741 Filed 11-14-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 4, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 30, 1983.

Carrol D. Shull,

Chief of Registration, National Register.

ALASKA

Fairbanks Division

Fairbanks vicinity, *Goldstream Dredge No. 8*, Steese Hwy.

ARIZONA

Gila County

Globe, *Holy Angels Church*, 231 S. Broad St.

Maricopa County

Phoenix, *Humbert, William K., House*, 2238 N. Alvarado Rd.

ARKANSAS

Union County

El Dorado, *El Dorado Apartments*, 420 Wilson Pl.

CONNECTICUT

Fairfield County

Stamford, *St. Andrew's Protestant Episcopal Church*, 1231 Washington Blvd.

GEORGIA

Fulton County

Atlanta, *Burns Cottage*, 988 Alloway Pl., SE

Muscogee County

Columbus, *Waverly Terrace*, Roughly bounded by Hamilton Rd., Peabody Ave., 27th and 30th Sts.

MARYLAND

Anne Arundel County

Annapolis, *Stanton Center*, 92 W. Washington St.

Caroline County

Denton, *Denton Historic District*, Roughly bounded by 1st, 10th, Gay, High, Franklin and Sunnyside Sts.

Cecil County

Bumpstead Archeological Site (Delaware Chalcedony Complex TR).
Heath Farm Camp Archeological Site (Delaware Chalcedony Complex TR).
Heath Farm Jasper Quarry Archeological Site (Delaware Chalcedony Complex TR).
Hitchens Archeological Site (Delaware Chalcedony Complex TR).
Iron Hill Cut Jasper Quarry Archeological Site (Delaware Chalcedony Complex TR).
McCandless Archeological Site (Delaware Chalcedony Complex TR).
Elkton vicinity, *Rock United Presbyterian Church*, MD 273 at Rock Church Rd.

Harford County

Aberdeen vicinity, *Chestnut Ridge*, 3650 W. Chapel Rd.

MONTANA

Beaverhead County

Dillon, *Hotel Metlen*, 5 S. Railroad Ave.

Lewis and Clark County

Gilman, *Gilman State Bank*, Main St.

NEW HAMPSHIRE

Cheshire County

Dublin, *Allison, Capt. Samuel, House (Dublin M R A)*, Keene Rd.
Dublin, *Amory House (Dublin M R A)*, Off Old Troy Rd.
Dublin, *Appleton Farm (Dublin M R A)*, Hancock Rd.
Dublin, *Appleton-Hannaford House (Dublin MARA)*, Hancock Rd.
Dublin, *Ballou-Newbegin House (Dublin M R A)*, Old Marlborough Rd.
Dublin, *Beech Hill (Dublin M R A)*, Off New Harrisville Rd.
Dublin, *Brackett House (Dublin M R A)*, High Ridge Rd.
Dublin, *Bremer, Mabel, House (Dublin M R A)*, Windmill Hill Rd.
Dublin, *Burpee Farm (Dublin M R A)*, Burpee Rd.
Dublin, *Cabot, Louis, House (Dublin M R A)*, Windmill Hill Rd.
Dublin, *Cabot, T. H., Cottage (Dublin M R A)*, Snow Hill Rd.
Dublin, *Corey Farm (Dublin M R A)*, Parsons Rd.
Dublin, *Dayspring (Dublin M R A)*, Windmill Hill Rd.
Dublin, *Dublin Lake Historic District (Dublin M R A)*, Lake, E. Lake, W. Lake, and Old Harrisville Rds.
Dublin, *Dublin Village Historic District (Dublin M R A)*, Old Common and Harrisville Rds., and Main and Church Sts.
Dublin, *Eveleth Farm (Dublin M R A)*, Burpee Rd.
Dublin, *Far Horizons (Dublin M R A)*, Learned Rd.
Dublin, *Fisk Barn (Dublin M R A)*, Gerry Rd.
Dublin, *Foothill Farm (Dublin M R A)*, Old Troy Rd.
Dublin, *Frost Farm (Dublin M R A)*, Old Marlborough Rd.
Dublin, *Frost Farm (Dublin M R A)*, Korpi Rd.
Dublin, *Gowing, Janes, Farm (Dublin M R A)*, Page Rd.
Dublin, *Gowing, Joseph, Farm (Dublin M R A)*, Page Rd.
Dublin, *Greenwood, Isaac, House (Dublin M R A)*, Peterborough Rd.
Dublin, *Greenwood Moses, House (Dublin M R A)*, Pierce and Old County Rds.
Dublin, *Ivanov-Rinov House (Dublin Inn) (Dublin M R A)*, Pierce Rd.
Dublin, *Knollwood (Dublin M R A)*, Windmill Hill Rd.

Dublin, *Lattice Cottage (Dublin M R A)*, Off Old Troy Rd.
Dublin, *Learned Homestead (Dublin M R A)*, Upper Jaffrey Rd.
Dublin, *Learned, Amos, Farm (Dublin M R A)*, N H 137
Dublin, *Learned, Benjamin, House (Dublin M R A)*, Upper Jaffrey Rd.
Dublin, *Markham House (Dublin M R A)*, Snow Hill Rd.
Dublin, *Marshall, Benjamin, House (Dublin M R A)*, Peterborough Rd.
Dublin, *Martin, Micajah, Farm (Dublin M R A)*, Old Peterborough Rd.
Dublin, *Mason House (Dublin M R A)*, Snow Hill Rd.
Dublin, *McKenna Cottage (Dublin M R A)*, Windmill Hill Rd.
Dublin, *Moore Farm and Twitchell Mill Site (Dublin M R A)*, Off Page Rd.
Dublin, *Morse, Asa, Farm (Dublin MRA)*, NH 101
Dublin, Morse, *Capt. Thomas, Farm (Dublin MRA)*, Old Marlborough Rd..
Dublin, *Mountain View Farm (Dublin MRA)*, Upper Jaffrey Rd.
Dublin, *Parsons Studio and Casino (Dublin MRA)*, Parsons Rd.
Dublin, *Perry, Ivory, Homestead (Dublin MRA)*, Corner Valley and Dooe Rds.
Dublin, *Perry, John, Homestead (Dublin MRA)*, Dooe Rd.
Dublin, *Piper, Rufus, Homestead (Dublin MRA)*, Pierce Rd.
Dublin, *Piper, Solomon, Farm (Dublin MRA)*, Valley Rd.
Dublin, Pompelia *(Dublin MRA)*, Snow Hill Rd.
Dublin, *Pumpelly Studio (Dublin MRA)*, Snow Hill Rd.
Dublin, *Richardson, Abijah Sr., Homestead (Dublin MRA)*, Hancock Rd.
Dublin, *Richardson, Deacon Abyah, House (Dublin Abijah, House MRA)*, Hancock Rd.,
Dublin, *Richardson, John, Homestead (Dublin MRA)*, Hancock Rd.
Dublin, *Richardson, Luke, House (Dublin MRA)*, Hancock Rd.
Dublin, *Robbe, James Jr., House (Dublin MRA)*, Old Peterborough Rd.
Dublin, *Spur House (Dublin MRA)*, Off Old Common Rd.
Dublin, *Stone Farm (Dublin MRA)*, Old Marborough Rd.
Dublin, *Stone House (Dublin MRA)*, Pierce Rd.
Dublin, *Stone, Richard, Cottage (Dublin MRA)*, Off Peterborough Rd.
Dublin, *Stone-Darracott House (Dublin MRA)*, Old Marlborough Rd.
Dublin, *Stonehenge (Dublin MRA)*, Windmill Hill Rd.
Dublin, *Strong, Capt. Richard, House (Dublin MRA)*, Peterborough Rd.
Dublin, *Strongman, Henry, House (Dublin MRA)*, Peterborough Rd.
Dublin, *Strongman, William, House (Dublin MRA)*, Old County Rd.
Dublin, *Townsend Farm (Dublin MRA)*, E. Harrisville Rd.
Dublin, *Wales, Mary Anne, House (Dublin MRA)*, Snow Hill Rd.
Dublin, *Weldwood (Dublin MRA)*, Old Troy Rd.
Dublin, *Windmill Hill (Dublin MRA)*, Windmill Hill Rd.
Dublin, *Wood House (Dublin MRA)*, NH 101 and 137

TENNESSEE

Chester County

Jacks Creek vicinity, *Hamlett-Smith House*, Jacks Creek-Mifflin Rd.

UTAH

Utah County
Springville, *Kelly, T.R., House, 164 W. 200 South*

WISCONSIN

Crawford County

Prairie du Chien, *Old Rock School*, S. Marquette Rd. at Parrish St

Dane County

Fitchburg vicinity, *Fox Hall*, 5183 County Hwy. M

Waukesha County

Waukesha, *First Methodist Church (Waukesha MRA)*, 121 Wisconsin Ave.
Waukesha, *Hemlock, David J., House (Waukesha M R A)*, 234 Carroll St.

[FR Doc. 83-30612 Filed 11-14-83; 8:45 am]
BILLING CODE 4310-71-M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Wayne National Forest

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

ACTION: Request for comments.

SUMMARY: The Belville Mining Company (Belville) is seeking a determination that its proposed surface coal mining operations on Federal lands in the Wayne National Forest are not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Specifically, Belville has requested the Director of OSM to determine that it has "valid existing rights" under Section 522(e) of SMCRA. The Director is giving notice of this request and requesting comments thereon.

DATES: Written comments may be submitted until further notice. OSM will publish a notice in the **Federal Register**, announcing the close of the comment period at least 15 days prior to such closing.

ADDRESSES: Comments should be sent or hand-delivered to and relevant material is currently available for public inspection at: Administrative Record, Office of Surface Mining, Room 5315, 1100 L Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Office of Surface Mining, Room 219, Interior South Building, 1951 Constitution Avenue, NW, Washington, DC 20240. Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION: Section 522(e)(2) of SMCRA prohibits "surface coal mining operations" on Federal lands within the boundaries of any national forest subject to "valid existing rights" (VER). Ther term is defined at 30 CFR 761.5, and was recently modified. See 48 FR 41312-41356, September 14, 1983.

By letter dated August 17, 1981, the Belville Mining Company requested that OSM make a determination of VER for its planned surface coal mining activities on Federal lands in the Wayne National Forest in Lawrence County, Ohio. The Company alleges that it owns the mineral rights including coal under a portion of Section 21, Twonship 4, Range 18, Washington Township, Lawrence County, Ohio, in the Wayne National Forest. Belville has supplied OSM with information relevant to the requested decision. OSM belives that there is now sufficient material in the Administrative Record that the public may offer informed comments on Belville's request. OSM intends to keep the comment period open until it has received all relevant information in this matter. At that time, OSM will publish a notice in the **Federal Register** announcing the close of the comment period 15 days thereafter. Following the close of the comment period, OSM will publish a final determination which will take into account all information appearing in the Administrative Record and any comments received thereon.

Dated: November 8, 1983.

J. R. Spradley,

Acting Director, OSM.

[FR Doc. 83-30760 Filed 11-14-83; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-52 (Sub-No. 24)]

Railroad Services Abandonment; the Atchison, Topeka and Santa Fe Railway Co., Between Henrietta and Richmond in Ray County, MO

The Commission has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railroad Company to abandon a portion of railroad known as the St. Joseph District of the Illinois Division extending from railroad milepost 0.0 at Henrietta to milepost 5.6 at Richmond a total distance of 5.6 miles

in Ray County, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (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 boldface on the lower lefthand 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 40 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30777 Filed 11–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30233]

Railroad Services Abandonment; the Atchison, Topeka and Santa Fe Railway Co.; Exemption-Operation, Alva, OK

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition and operation by the Atchison, Topeka and Santa Fe Railway Company of a 1.29-mile line in Alva, OK from the requirement of prior approval under 49 U.S.C. 10901.

DATES: This exemption shall be effective on December 15, 1983. Petitions to stay this decision must be filed by November 25, 1983, and petitions for reconsideration must be filed by December 5, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30233 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Dennis W. Wilson, 80 East Jackson Boulevard, Chicago, IL 60604

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

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

Decided: November 7, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30779 Filed 11–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub-No. 154)]

Railroad Services Abandonment; Burlington Northern Railroad Co., La Moure, Logan and Stutsman Counties, ND

The Commission has found that the public convenience and necessity permit the Burlington Northern railroad to abandon a 39.38 mile line of railroad located in La Moure, Logan and Stutsman Counties, ND, between milepost 107.28 near Edgeley Junction, ND, and milepost 146.66 near Streeter, ND, subject to conditions. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person or government entity 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 lefthand 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 precedures 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. 83–30776 Filed 11–14–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30308]

Railroad Services Abandonment; Laona and Northern Railway Co., Near Laona, Forest County, WI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Laona and Northern Railway Company (LNO) of its 7.527-mile line of railroad near Laona, Forest County, WI.

DATES: This exemption will be effective on December 15, 1983. Petitions for reconsideration must be filed by December 5, 1983. Petitions for stay must be filed by November 25, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30308 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: George P. Luckow, Laona and Northern Railway Company, Laona, WI 54541

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

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

Decided: November 1, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre concurred in the result.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30778 Filed 11–14–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 17–83]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Immigration and Naturalization Service (INS).

The Alien Status Verification Index (JUSTICE/INS–009) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.** This record system wil be extracted from a subsystem of the Immigration and Naturalization Service Index System, JUSTICE/INS 001. It will be used to verify the status of a specific

alien and determine the location of an alien's file. It will also be used in the future by state employment security agencies (SESA's) and other federal, state and local governmental agencies with a need to verify the eligibility status of aliens seeking unemployment, welfare, or other publicly funded benefits.

The Privacy Act of 1974 provides that the Congress and the Office of Management and Budget (OMB) be notified of proposed systems of records and that the public be givien a 30-day period in which to comment on the routine uses of the system. In addition, OMB requires a 60-day period in which to review the system before it is implemented. Therefore, the Congress, the public, and OMB are invited to submit written comments on this system.

Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Department of Justice, Room 6314, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

If no comments are received from either the public, OMB, or the Congress within 60 days from the date of publication of this notice (January 16, 1984), the system will be implemented without further notice in the **Federal Register.**

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: November 2, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/INS–009

SYSTEM NAME:

Alien Status Verification Index JUSTICE/INS–009.

SYSTEM LOCATION:

Central, Regional, District, and other files control offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999. Remote access terminals will also be located in state employment security offices (SESA's) and other federal, state, and local agencies nationwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by provisions of the immigration and nationality laws of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an index of aliens and other persons on whom INS has a record as an applicant, petitioner, beneficiary, or possible violator of the Immigration and Naturalization Act. Records are limited to index and file locater data includng name, alien, registration number (or "A-file" number), date and place of birth, date and port of entry, coded status transaction data, immigration status classification, and office location of related records files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 290, of the Immigration and Nationality Act, as amended (8 U.S.C. 1360).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to verify an alien's status or to locate the INS file control office for the alien file of a particular individual.

A. A record from this system of records may be disclosed, as a routine use, to a federal, state, or local government agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

B. A record from this system may be disclosed to other federal, state, or local government agencies for the purpose of verifying information in conjunction with the conduct of a national intelligence and security investigation, or for criminal or civil law enforcement purposes.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available for systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service:

A record from this system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic disk and tape.

RETRIEVABILITY:

Records are indexed and retrievable by name and date and place of birth, or by name and A-file number.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. Access is controlled by restricted password for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the related record.

SYSTEM MANAGER AND ADDRESS:

The Associate Commissioner, Information Systems, Immigration and Naturalization Service, Central Office, 425 I Street, N.W., Washington, D.C. is the sole manager of the system.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager listed above.

RECORDS ACCESS PROCEDURES:

In all cases, requests for access to a record from this system shall be in writing. If a request for access in made in mail, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include the name, date and place of birth of the person whose record is sought and, if known, the alien file number. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the

system should direct his request to the System Manager or to the INS office that maintains the file. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORDS SOURCE CATEGORIES:

Basic information contained in this system is taken from Department of State and INS applications and report on the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-30747 Filed 11-14-83; 8:45 am]
BILLING CODE 4410-10-M

Office of the Attorney General

[Order No. 1036-83]

President's Commission on Organized Crime; Meeting

AGENCY: Department of Justice.

ACTION: Notice of a closed meeting and an open meeting.

SUMMARY: This notice sets forth a summary of the agenda for two forthcoming meetings of the President's Commission on Organized Crime, along with an explanation of why the first of these meetings will be closed to the public. Notice of these meetings is required under the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2).

DATES:

November 28, 1983, 2 p.m. to 5 p.m. (closed meeting);
November 29, 1983, 10 a.m. to 1 p.m. (open meeting).

ADDRESS:

November 28 Meeting: 1425 K Street, NW., Suite 700, Washington, D.C. 20005;
November 29 Meeting: Henderson Room, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Gainer, Deputy Associate Attorney General, United States Department of Justice, Room 4118, Washington, D.C. 20530; (202) 633-1654.

SUPPLEMENTARY INFORMATION: The November 28 meeting will be held to discuss four separate issues. First, the Commission will conduct a review of candidates for the position of Executive Director of the Commission. This discussion will cover internal personnel practices and information of a personal nature and is exempted from the disclosure requirements of the Federal Advisory Committee Act by 5 U.S.C. 552b(c) (2) and (6), which is incorporated by reference into the Federal Advisory Committee Act. Second, the Commission will discuss investigative techniques which may be employed by the Commission, analyzing various types of undercover investigations and confidential investigations. This discussion, which will cover special investigative techniques, is exempted by 5 U.S.C. 552b(c)(7)(E) and, to the extent certain ongoing confidential investigations may be discussed, 5 U.S.C. 552b(c)(7) (D) and (F). Third, the Commission will consider certain personnel questions, which are exempted under 5 U.S.C. 552b(c)(6). Finally, the Commission will review measures to be taken to assure the confidentiality of its material and sources. This review of special security techniques is exempt under 5 U.S.C. 552b(c)(7) (D) and (E).

The November 29, 1983 meeting, which will be open to the public and press, is for the purpose of receiving testimony concerning the scope of organized crime in the United States, the success of federal, state and local law enforcement authorities in confronting such activity, and the need for additional information on the nature and extent of the organized crime problem in the United States. In addition, the Commission will solicit views concerning the breadth and direction of the Commission's investigation. Persons presenting testimony before the Commission will include the Attorney General of the United States, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration.

Dated: November 10, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-30876 Filed 11-10-83; 4:13 pm]
BILLING CODE 4410-01-M

POSTAL RATE COMMISSION

[Docket No. C84-2]

Complaint of Carlos Baisden and Dorothy Baisden; Filing of Complaint Under 39 U.S.C. 3662

November 7, 1983.

Notice is given that on November 2, 1983, Carlos and Dorothy Baisden (Complainants) have filed, pursuant to 39 U.S.C § 3662, a complaint concerning the type of delivery service provided to a Springfield, Ohio, mobile home trailer park which they own and operate. The Complainants want curbside delivery for their trailer park. Under the Commission's rules of practice, the Postal Service has 30 days from the filing of the complaint to file and serve its answer.

Charles L. Clapp,

Secretary

[FR Doc. 83-30732 Filed 11-14-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13618; 812-5671]

The Travelers Insurance Company, et al.; Application

November 7, 1983.

Notice is hereby given that The Travelers Insurance Company ("The Travelers") One Tower Square, Hartford, Conn. 06115, and The Travelers Funds B and B-1 for Variable Annuities (the "Funds") (hereinafter collectively referred to as "Applicants"), filed an application on October 11, 1983 for an order of the Commission, pursuant to Sections 6(c) of the Act , for exemptions from the provisions of Sections 12(b) and 27(c)(2) of the Act and Rule 12b-1 promulgated thereunder all to the extent necessary to permit Applicants to offer certain variable annuity contracts funded by the Funds and The Travelers Fund MM for Variable Annuities and The Travelers Fund U for Variable Annuities. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and Rule thereunder for a statement of the relevant statutory provisions.

Applicants request relief from Section 27(c)(2) to the extent necessary to make the following deductions: a semi-annual administrative charge of $15 during the accumulation period which cannot be increased; premium taxes; an investment advisory fee; and a mortality and expense risk charge equal on an annual basis to 1.25% of net assets (.50% for mortality risks, .15% for expense risks, and .60% for distribution expense risks). Applicants represent that the administrative charge will reimburse The Travelers only for actual expenses associated with administering the contracts. Regarding the mortality and expense risk charge, The Travelers represent that this charge is reasonable in amount as determined by industry practice with respect to comparable annuity products. The Travelers states that this representation is based on its

analysis of publicly-available information about similar industry products and that it will maintain at its Home Office, available to the Commission, a memorandum setting forth the basis for this representation.

Applicants will impose in some cases a contingent deferred sales load upon partial and total contract surrenders, not to exceed 9% of total premiums paid under the contract. Applicants acknowledge that this charge may be insufficient to cover all costs of distributing the contracts, and that any shortfall would be absorbed by the general account of The Travelers, which might include assets attributable to the risk charges imposed in connection with the contracts. Applicants request relief from Section 12(b) and Rule 12b–1 thereunder insofar as distribution expenses in excess of the sales load might be deemed to be financed, directly or indirectly, by the risk charges. Applicants assert that relief is appropriate because: (1) Rule 12b–1 was not intended to apply to managed separate accounts; (2) the protections of Rule 12b–1 are not necessary in light of Commission review of the reasonableness of the risk charge and prospectus disclosure that profits from the charge may be used for distribution; (3) application of Rule 12b–1 to managed separate accounts would produce a burdensome and inequitable treatment viz-a-viz trust accounts; and (4) to the extent a managed separate account pays distribution expenses from general account assets attributable in part to legitimate profits derived from a reasonable risk charge, such payments should be viewed as analogous to an investment adviser paying distribution expenses from his "legitimate" and "not excessive" advisory profits, a situation not requiring compliance with Rule 12b–1.

In this regard, The Travelers represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Funds and contract owners. The Funds represent that each will have a board with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 29, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30699 Filed 11-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20353; File No. SR-Amex-83-27]

Self-Regulatory Organizations; Proposed Rule Changes; American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 23, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby files for Commission approval equities specialist performance and allocation and reallocation procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change. (a) *Purpose.* In November 1981, the Commission staff ("Staff") recommended that the Exchange file its evaluation, allocation and reallocation procedures with the Commission for its approval.[1]

Specialist Evaluation

Amex Rule 170 prohibits a member from acting as a specialist in a security unless he is duly registered to act in that capacity. If the Board determines that a specialist substantially or continuously fails to engage in a course of dealings reasonably calculated to assist in the maintenance of a fair and orderly market or fails to meet other specified performance standards which are conditions for continued registration as a specialist,[2] it may suspend or revoke the specialist's registration in one or more of the securities in which he is registered.

The Board has delegated to the Committee on Specialist and Registered Trader Performance ("Performance Committee") the authority to evaluate specialist performance and to take specified action in response to particular perfomance deficiencies.

The Committee on Equities Allocations ("Allocations Committee") has been delegated authority by the Board to allocate securities, and to reallocate securities on the recommendation of the Performance Committee.

Pursuant to Rule 170, the performance of specialists is evaluated on a routine basis from the perspectives of brokers on the Floor, the Performance Committee and Exchange staff. The combination of objective and subjective data obtained from these sources is submitted to the Performance and Allocations Committees, which use it as the basis to evaluate specialists and to allocate or reallocate securities.

A. The Performance Committee

At the core of the Exchange's specialist evaluation process is the Performance Committee. This Committee is delegated authority annually by the Exchange's Board of Governors to evaluate specialist performance, to meet with specialist units to discuss particular problems, and to take the following actions with respect to specialists: send admonitory letters; reorganize specialist units; prohibit specialist units from applying for allocations for specific periods of

[1] See letter from Douglas Scarff, Director, Division of Market Regulation, to Robert Birnbaum, President, Amex, dated November 10, 1981.

[2] See Amex Rule 170(a)-(e) and Commentaries thereto.

time; suspend a specialist's registration as such for specific periods of time; and recommend to the Allocations Committee that securities be reallocated. The Committee may also recommend that a performance matter which appears to involve a material violation of Exchange Rules be referred to the Exchange's Compliance Division for investigation.

The Committee is composed of approximately 20 Floor members, including five Floor Governors, representing specialists, registered traders and brokers, all of whom are Exchange Officials or Floor Officials.

The Performance Committee meets with the staff of the Exchange's Trading Analysis Division ("Trading Analysis") on a regular basis to review possible instances of performance weakness on the part of particular specialist units as indicated by anaylsis of trading date.[3] Trading Analysis supplements information shown on daily transaction journals (which includes all quotes and trades in time sequence) with information from automated exception reports, specialist principal trading activity reports, and information regarding customer complaints. Using this data, the Performance Committee evaluates particular instances of possible poor performance for market continuity, depth, stabilization and quotation spread. In addition, the Committee may meet with members of the specialist unit involved, at which time the unit is given an opportunity to offer justification or to raise mitigating factors relating to its performance.

Based on its determination of the severity of an instance of weak performance, the Performance Committee assigns the unit a rating of 1 to 6 (1 being the least serious, and 6 the most severe). This rating is noted in the unit's permanent performance file maintained by Trading Analysis and which is made available to the Allocations Committee. Each such performance rating serves to lessen a unit's overall rating. If a unit's performance is assigned a rating of 3 the Performance Committee will consider the imposition of remedial measures. If a unit receives a 4, 5 or 6 rating, the Committee will impose, in every case, an appropriate measure. As described above, the available measures include: An admonitory letter, preclusion from future allocations, suspension of a specialist's registration, or a recommendation of reallocation. If the Committee believes that a material rule violation has taken place, it will refer the matter to the Compliance Division.

The permanent performance files for all units are reviewed and evaluated by the Performance Committee on a quarterly basis. Each unit is then given a composite rating based on the number and severity of individual ratings in its file in relation to the number of issues in which it specializes. This composite rating is then compared to the average of all units, based on a curve. This produces a final Performance Committee rating on a 1 to 5 scale (1 being the highest and 5 the lowest), determined by deviation from the average.

The Performance Committee rating is accorded the most significant of the performance data presented to the Allocations Committee. A unit receiving a final rating of 4 or 5 for any quarter is automatically precluded from applying for new allocations until its rating has improved, either in the next or subsequent quarterly ratings. Preclusion from allocations is viewed by the Exchange as a powerful incentive to improve performance, particularly in view of the need to replace issues which list elsewhere or are delisted by the Exchange. As discussed more fully below, the Performance Committee will consider reallocation of securities where preclusion does not result in improved performance, as determined by a 4 or 5 Performance Committee rating coupled with a similar Specialist Unit Evaluation Questionnaire rating (discussed below) over two consecutive quarters. The Exchange considers reallocation to be the severest of performance actions; therefore, in considering a recommendation of reallocation, the Performance Committee will take into account remedial efforts geared to improve performance immediately, such as the addition of new manpower or capital.

B. Specialist Unit Evaluation Questionnaire

The second major evaluation tool used by the Exchange is the Specialist Unit Evaluation Questionnaire for Equities ("Questionnaire"). (See Exhibit 3.) On a quarterly basis, the Exchange distributes the Questionnaire to floor brokers and registered traders, who are requested to evaluate the performance of specialist units based on their day-to-day experience. Members use a 1 to 5 rating system (1-outstanding; 2-good; 3-average; 4-below average; 5-weak) in their evaluations and are instructed to use a rating of 6 (no opinion) when, due to insufficient contact with a particular unit, they are unable to render a judgment as to its capabilities.

Floor members evaluate every specialist unit in each of four categories: Fiduciary responsibility, specialist unit staffing, communication function, and auction market maintenance. The Questionnaire sets forth an explanation of specialist duties and responsibilities in each category, highlighting particular factors members should consider in responding to each question.

The identity of and specific comments provided by responding members is strictly confidential, although no survey is accepted, unless it is signed, for validation purposes. Members assigning a 4 or 5 rating to a unit in any category are required to furnish written comments in support of the ratings.

All questions are given equal weight, and a specialist unit's over-all rating is based on the combined evaluations of the responding brokers on all four questions by compiling an average of all responses submitted. This numerical rating (1 to 5) is provided to the Allocations Committee. As is the case with a unit which receives a 4 or 5 Performance Committee rating, a unit which receives a 4 or 5 rating on the Questionnaire in any quarter is precluded from applying for any allocation until its quarterly performance rating has improved. The Performance Committee will consider recommending reallocation where a unit receives a 4 or 5 Questionnaire rating coupled with a similar Performance Committee rating over two consecutive quarters and lesser remedial efforts to improve performance have failed.

Allocation Procedures

The Committee on Allocations is delegated authority by the Exchange's Board of Governors to allocate securities and to reallocate specialty securities to specialist units.

When the Exchange has approved an issue for listing, an Equities Allocations Committee is convened to select a specialist unit for the issue. All units, except those which are precluded from allocations due to poor ratings, are deemed to have applied for every new issue or issue to be reallocated, unless a written statement is submitted to the Committee explaining the reason why a particular unit does not wish to be considered for an allocation (a conflict of interest, the incompatibility of the issue with its current "book," etc.).

[3] In practice, due to the large size of the Performance Committee and the frequency with which Exchange procedures would otherwise require it to convene, subcommittees consisting of approximately four Committee members may meet with Trading Analysis instead of the full Committee for such reviews. However, such subcommittees refer any significant instances of performance weakness to the full Performance Committee for determination of any action to be taken.

A new Committee is convened for each allocation. A Floor Governor usually serves as the Committee Chairman. Where no Floor Governor is available, the Chairman of the Exchange's Specialist or Floor Broker's Association, or either of the two Senior Floor Exchange Officials may serve as Chairman. In all cases, the Chairman is selected on a rotating basis. The Chairman may not vote except to break a tie.

The seven voting members of an Allocations Committee consist of six Floor brokers chosen from a roster of approximately 25 brokers, and one specialist chosen from a roster of approximately 15 specialists. Four brokers and the specialist are selected on a rotating basis from their respective rosters. In order to preserve continuity from one Committee to another, each Committee includes two brokers, selected from a sub-group of the Floor Broker roster, who serve on five consecutive Committees. Minutes of each Committee meeting are kept and are conveyed from one Committee to the next sitting Committee.

No two members affiliated with the same firm or the same specialist joint account are eligible to serve on the same Allocations Committee. The names of members serving on a particular Committee are confidential, although the results of each meeting, along with the identity of the Committee Chairman, and publicized in the Exchange's Daily Circular. The rosters from which Allocations Committee members are selected are also made public.

If a company which is about to be listed desires to have a voice in the selection of its specialist, a special allocations procedure is invoked. After an Allocations Committee is selected, a "pre-allocation" meeting is held, during which the Committee compiles a list of the ten specialist units considered most eligible for the listing. This list is forwarded to the company, which may eliminate up to three of the ten units. The Allocations Committee then reconvenes to make the final selection from the units remaining on the list.

In all allocations, the Committee considers a broad range of factors, the most significant of which are the Performance Committee rating, the Questionnaire rating, and statistical data concerning the issue. This data, including the ratings, is assembled by Trading Analysis and furnished to every Allocations Committee on the Summary Statistics for Allocations Committee sheet ("Statistics Sheet"). (See Exhibit 3.) The following information is contained on the Statistics Sheet:

1. *Overall Specialist Statistics*: The Committee is supplied with aggregate statistics as to all specialist units. This includes average principal participation for the most recent six months; average daily volume per active specialist for equities and options for the most recent 12 month and three month periods; and the number of issues allocated in the last 12 months.

2. *Manpower*: The Committee is informed of the composition of each specialist unit in terms of regular and alternate specialists and the number of clerical personnel.

3. *Equity Volume*: The Committee is furnished with equity volume in thousands per specialist for each unit for the most recent 12 month period. This figure is also given as a percentage deviation from the Exchange average for all specialists for the same period. The Committee is also furnished with the 12 month equity volume gained/lost in the most recent 24 month period for each unit.

The Statistics Sheet provides additional information to the Committee which is considered relevant:

—Option volume per active specialist as a percentage of the Exchange average of all specialists for the most recent 12 month and three month periods. As a measure of manpower and its distribution within a unit, these data aid in determining a unit's ability to handle additional securities.

—Average principal participation for each unit for the most recent six months;

—The percentage of each unit's especialty issues with average daily volume below 1,000 shares during the most recent six months and the number and percentage of issues with floats under 500,000. The percentage of low volume issues within a book is used to evaluate capacity and performance.

—The total number of specialty issues per unit, and per specialist;

—A list of issues allocated to each unit during the last 12 months period and issues removed from listing due to merger or acquisition, with average daily volume indicated.

The Committee is also furnished with any letters from specialist unit applicants in support of their applications or explaining why they should not be considered for such allocation. Trading Analysis also apprises the Committee of any pending changes in the composition of a unit, and any relevant findings of the Exchange's Examinations Division as to a unit's financial status.

Reallocation Procedures

An Allocations Committee may be convened to reallocate securities under the following circumstances:

(1) The Performance Committee recommends reallocation on the basis of a failure of a specialist unit to maintain performance standards in a particular instance; as a result of consistently poor performance ratings; or a significant change within a unit; such as by merger or dissolution;

(2) A specialist unit requests to be relieved of a particular security;

(3) Concellation of a specialist's registration due to disciplinary action.

A new committee would be convened for each reallocation and is structured in the manner described above for allocations of new issues.

It is the Exchange's view that preclusion from allocations as a result of poor performance serves as a most effective incentive in assuring quality performance by specialist units. This view is based on the unique nature of the Exchange's list, which, more than other exchanges, is subject to continual change. A specialist unit on the Amex with consistently poor ratings or which is precluded from receiving new allocations must improve its performance or face the prospect of a steadily dwindling product base.

The Performance Committee will consider recommending a reallocation if the unit's performance remains unsatisfactory despite remedial efforts for two consecutive quarters, as demonstrated by a 4 or 5 Performance Committee rating coupled with a 4 or 5 Specialist Unit Evaluation Questionnaire rating for the two quarters. In addition, the Performance Committee will review a unit's performance and consider recommending a reallocation where, either on an isolated situational basis, or on a nonconsecutive quarterly basis, it determines that a unit has clearly failed to meet its market making obligations under Amex Rule 170.

Where the Performance Committee has recommended reallocation, the Allocations Committee considers a broad range of factors, primarily as set forth on the Statistical Sheet (see discussion above), in order to select the most qualified replacement specialist unit for the security. A memorandum is distributed to all specialist units, informing them of the pending reallocation. As with initial allocations, all eligible units are deemed to have applied.

Where the Allocations Committee convenes to consider a reallocation

necessitated by dissolution of a specialist unit, Exchange procedure varies depending on whether or not the dissolution is contested by the parties.

Where the parties have previously entered into a written agreement as to how the "book" will be divided in the event of a dissolution or recombination or have otherwise reached an agreement as a result of negotiation, the Allocations Committee will allocate securities in accordance with the agreement, subject to a countervailing institutional interest. In determining whether there is any countervailing institutional interest, the Committee considers whether the allocation will maintain or enhance the quality of the exchange's market, taking into account specialist performance, market making capability, personnel and similar considerations.

In contested reallocations, two avenues for dispute resolution are available. In the case of a contractual or other legal dispute, reallocation is deferred until the dispute is resolved through the Exchange's formal arbitration process. The Allocations Committee would then reallocate the securities in accordance with the decision of the arbitration panel absent a countervailing institutional interest. In the case of other disputes, reallocation is deferred until the dispute is resolved through an informal arbitration mechanism approved by the Board. If informal arbitration is used, an Exchange Governor chosen by each party, and a third Governor chosen by the Exchange and mutually agreed upon by the parties would be convened to hear and resolve the dispute. The parties would agree to be bound by the decision of the informal "committee" and the Allocations Committee would treat such a decision as it would an agreement between the parties or a formal arbitration decision; i.e., it would reallocate the securities in accordance with the decision absent a countervailing institutional interest.

Appeals

The Exchange's procedures governing appeals from decisions of the Performance and Allocations Committees are designed to assure full due process protections. Pursuant to the Board's delegation of authority, appeals from either Committee are heard by the Board's Executive Committee.

A specialist or specialist unit may appeal a decision of the Performance of the Allocation Committee to the Executive Committee of the Board of Governors (Article II of the Exchange Constitution), file any materials in support of the appeal, and request that a hearing be held. The Performance or Allocation Committee may also submit any supporting materials.

If a hearing has been requested, due notice of the hearing date is given by the Exchange. The appealing specialist may be represented by counsel, and each party may appear before the Executive Committee to provide documentary evidence and present testimony. A stenographic record is kept of the proceeding. The written decision of the Executive Committee is rendered as soon as reasonably possible after the hearing. Since such matters are not "disciplinary" within the meaning of Section 19(d) of the Act, the decision of the Executive Committee is not subject to further appeal.

(b) *Basis.* The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that the Exchange's procedures are designed to promote just and equitable principles of trade and protect investors and the public interest.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange's procedures encourage specialists to compete with each other for the allocation of new issues and the retention of those securities in which they are currently registered. The proposed rule change rewards superior performance and thus promotes and enhances competition among Exchange specialists.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th 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 5th 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 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: November 4, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30698 Filed 11-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20343; File No. SR-NYSE-83-52]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1983, the New York Stock Exchange, Inc. Filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for Exchange trading of options on the following "industry" index stock groups:

Industry	Number of stocks
Aerospace	10
Banking:	
Major Commercial Banks	19
Regional Banks	15

Industry	Number of stocks
Brokerage	12
Health/Hospitals:	
Pharmaceuticals	15
Proprietary Hospital Management	7
OTC Technology	20
Precious Metals	9
Telecommunications:	
Telecommunications Companies	13
"New" AT&T Companies	8
Regional Telephone Companies	14
Transportation:	
Airlines	16
Railroads	10

The contract specifications for options on industry index stock groups ("industry index options") are identical, save for the specification of a March expiration cycle and for the composition of the indices, to the specifications for the Exchange's options on "broad" index stock groups ("broad index options") based on the NYSE Composite Index. Transactions in industry index options will be governed by the Exchange's 700 series rules, the rules of the Exchange that currently apply to broad index options. The terms of most of the 700 series rules, with the proposed addition of appropriate definitions, can apply without modification to industry index options. However, some rules require amendment in order to clarify or appropriately extend their application to industry index options. Therefore, the Exchange is proposing the amendments discussed below.

(A) Economic Uses

Industry index options, like broad index options, can be used by investors or investment advisers holding or managing stock portfolios. In addition, underwriters and other persons sensitive to changes in stock prices, particularly short-term changes, can benefit from the use of industry index options as well as broad index options.

Industry index options also lend themselves to a number of specific uses. For example, an investor who believes that a particular company's stock will outperform the stocks of other companies in the same industry might buy that stock and simultaneously write calls or buy puts on the industry index. If the stock's price behaves as predicted, the investor shall profit regardless of whether general market forces or factors common to companies in that particular industry cause the prices of the group of stocks to rise or decline in the aggregate. If the index rises, he would expect his profit on the individual stock to exceed his loss on the put or call option; and if the index falls, he would expect his profit on the put or call option to exceed his loss on the individual stock.

Second, if an investor believes that the prices of the stocks in a particular industry will rise as a whole (or fall as a whole), but does not wish to make a prediction about any particular company, the investor could attempt to profit on his general prediction by buying calls (or writing puts) on an index group representing the industry segment. In this regard, it should be noted that a position in an option on an index group based on an industry segment provides many of the same economic opportunities that are provided by ownership of shares in a specialized mutual fund. However, mutual funds do not provide means for investors to act on the belief that the stocks comprising an industry group will decline in value as a whole—mutual funds shares cannot be sold short. With the availability of index group options on industry segments, investors will have opportunities to act on such beliefs by writing calls or buying puts.

Third, institutions that have substantial holdings in a particular industry group can use industry index options to adjust quickly and efficiently the risks of that position without having to effect transactions in a large number of separate stocks or individual options thereon.

(B) Selection of Industry Groups.

The Exchange has sought to design its index industry groups so that the issuers included in each group represent a broad spectrum of the companies in the industry and replication of an index group by holding positions in the component stocks is not unnecessarily difficult. The Exchange has generally sought to avoid overlap of the stocks among the 13 industry index groups.

The Exchange has selected each group's component stocks with reference to the specified standards. These standards (1) Differentiate industry index groups from broad index groups on the basis of the intra-industry character of the former groups' stocks, (2) provide that each group consist of at least six stocks and (3) require that, if the number of stocks in the group is less than 25, each stock meet specified guidelines. The guidelines are modeled conceptually on those applied to individual stock options by the American Stock Exchange, Inc. ("AMEX").

The proposed criteria include initial requirements regarding the market value of each component stock (outstanding shares times price per share) of $40 million and annual trading volume of 1.0 million shares. The Exchange also proposes maintenance criteria equal to 75 percent of the initial requirements. In addition, through the application of the Exchange, AMEX and NMS/OTC "listing" criteria, the Exchange assures that each stock is subject to real-time reporting of last sale information and meets additional requirements regarding factors such as net tangible assets and earnings. The fact that a stock may meet the guidelines established by the Exchange does not necessarily mean that it will be approved, or that its approval will not be withdrawn, as a stock qualified for inclusion in a stock group underlying an industry index option.

The principal argument for requiring that stocks in smaller underlying industry groups meet minimum standards is the individual stock option surrogate concerns, discussed below, that have led to the application to industry index options of margin rules and position and exercise limits deriving from those governing individual stock options. These concerns in turn are founded on the potential for manipulation of industry index options through activity in one or more underlying stocks.

Three index group characteristics are relevant to these concerns: (1) The extent of inter-industry diversity among the stocks within a group, (2) the number of stocks within the group and (3) the size and liquidity of the market for each stock within the group. The Exchange's criteria are addressed to each of them.

As to characteristic (1), The Exchange recognizes that, because the prices of stocks in different industries are independent of one another (save for the influence of general market trends), inter-industry groups do not present manipulation concerns of a degree that requires regulatory intervention beyond the reporting of activity in related securities. Thus, the Exchange distinguishes inter-industry groups ("broad" groups) from intra-industry groups ("industry" groups) and subjects only industry index options to additional restrictions.

Second, manipulative concerns fall away if the number of stocks (characteristic (2)) is sufficiently large to dilute the potential for affecting the group value, and hence the option, through activity in one or a few component stocks. The Exchange believes that its selection of 25 as the cut-off point below which each stock must meet stock-specific standards provides a comfortable margin of safety. Moreover, the Exchange proposes an absolute minimum of six stocks.

Characteristic (3) suggests a means for addressing whatever manipulative potential may exist for six-to-24 stock

groups. By assuring that the market for each stock exhibits liquidity, the Exchange compensates for the absence of either inter-industry diversity or large numbers of stocks in the group. However, given that there must be at least six stocks in any group and that some degree of price independence will exist even for the most homogeneous or dominated group of stocks, the Exchange proposes standards that, when viewed on an individual basis, are somewhat relaxed relative to those applicable to stocks underlying individual stock options. But when viewed from the standpoint of the group as a whole, the aggregate market value and annual trading volume minima for the smallest possible group ($240 million and 6.0 million shares, respectively) are more than three and two times larger, respectively, than the corresponding minima for an individual stock option ($70 million * and 2.4 million shares, respectively).

(C) Index Calculation and Dissemination

The Exchange will arrange for the calculation and dissemination of the values of the indices underlying the options proposed by this submission. Each index is market-weighted (i.e., the price of each stock is weighted by the number of shares outstanding). A standardized base value for each index will be specified on the date the index is initiated. Index values will be calculated on the basis of consolidated transaction prices in the case of Exchange- or AMEX-listed stocks and transaction prices as reported by NASDAQ in the case of NMS/OTC stocks. To prevent transactions that occur in the generally "thin" markets that exist after the primary exchanges' close from providing a vehicle for manipulation of the closing index group value and therefore the value upon which exercises are made, and also to provide a practical means for establishing a timely value for the purpose of after-hours activity, the Exchange will not include in its index calculations transaction reports from regional exchanges, the third market and the NMS/OTC market received after the closing prices from Exchange- and AMEX-traded issues are received from those two exchanges (i.e., shortly after 4:00).

(D) Specification Rules

In order to extend application of the 700 series rules to industry index options, certain of the Exchange's index option rules, such as those pertaining to definitions and to the selection of underlying index groups (discussed above), are proposed to be amended. In addition, because of concerns that an option on a group of stocks drawn from the same industry, particularly when the index value is significantly influenced by only one or a few of the stocks in the group, may function as a surrogate for individual options on that stock or those stocks, the Commission has insisted that the rules of the other index options exchanges governing industry index options conform in certain areas more closely to those that apply to individual stock options than to those that apply to broad index options. In deference to that view, the proposed rule change amends the Exchange's option rules pertaining to position and exercise limits and margin requirements so as to apply to industry index options requirements that are more analogous to the rules that apply to individual stock options.

The most significant changes of this kind, other than those discussed above relating to the selection of stock groups, are as follows.

Position and Exercise Limits.—The Exchange proposes a three-tiered position and exercise limit structure for industry index options, with the lowest limit (4000 contracts) applicable to options on any index group that includes a single stock accounting for 30 percent or more of the group value (a "dominant underlying stock"), and the highest limit (8000 contracts) applicable to options on indices that are considered to be least affected by any particular component stock or group of stocks.

Trading Halts.—Rule 717 presently requires that if the Exchange halts trading in an index stock group option because trading is not open in underlying stocks accounting for a specified percentage of the current index group value, it cannot resume trading in the index group option until underlying stocks accounting for the specified index group value threshold are trading. The rule as amended provides that the Exchange can resume trading in an industry index option even though the underlying stock trading threshold is not met if the Exchange determines that the interests of a fair and orderly market are best served by resumption of trading. The Exchange would generally be inclined to make such a determination if it believed that trading in the underlying stock or stocks responsible for the options trading halt would be likely to reopen at a price or prices not significantly different from those last reported for such stock(s). In making this evaluation, the Exchange would consider the reason(s) why the underlying stock(s) are not trading.

Because the Exchange is proposing some index stock groups that include stocks that are not exchange-listed, it is also proposing modifications to Rule 717 that recognize that some stocks in an industry group may be primarily traded on an exchange while others may be primarily traded through NASDAQ. In addition, because the over-the-counter equivalent to an exchange halting or suspending trading in a stock includes the suspension of quotations therein, the Exchange is proposing changes to Rule 717 appropriately reflecting that fact.

(E) Regulatory Issues

Because it has been suggested that at least some industry index options may for some purposes serve as a surrogate for individual stock options, the Exchange believes that, unless and until more experience with the trading of industry index options proves otherwise, the options exchanges must take seriously the potential for manipulative opportunity arising from interplay between the industry index options market and the markets for the underlying stocks. Accordingly, the proposed rule change, as noted above, applies to the Exchange's industry index options many components of the regulatory framework (such as margin requirements and position and exercise limits) that currently apply apply to individual stock options. Moreover, the Exchange is reviewing its options surveillance plan with a view toward making the kinds of changes anticipated by the Commission when it conditioned the commencement of trading of industry index options on the AMEX and the Chicago Board Options Exchange, Inc. ("CBOE") on the submission of a revised surveillance program.

Exchange Trading of Underlying Stock.—The Exchange does not believe, however, that the fact that it is also the primary market for most of the stocks underlying its proposed industry index options poses any unique regulatory concerns not adequately addressed by the way in which the Exchange has structured its index options market.

On a physical level, the spatial separation of the equities and options Floors creates a barrier to forms of communication not equally available in respect of the AMEX and CBOE options floors. The Exchange's industry index options Floor will be located at 30 Broad Street, some distance away from its equities floor at 11 Wall Street. Internal

* This figure is not entirely comparable, since AMEX Rule 915.01(1) excludes holdings of directors, officers and ten percent beneficial shareholders in its calculation of the number of shares outstanding.

access between the two buildings is possible, but only by means of a corridor between 11 Wall Street and 20 Broad Street and a Bridge between 20 Broad Street and 30 Broad Street. This circuitous foot path (which does not connect at the level of the two trading floors) was created to facilitate staff and clerical traffic among the Exchange's three buildings. It would not enable options or equity traders to gain any meaningful time and place advantages.

The Exchange is proposing rule changes designed to detect and prevent manipulation through concurrent activity in both an industry index option and in underlying stocks whose prices tend to have a disproportionate impact on the index value. For example, the proposed rule change provides that a specialist cannot act as either an options specialist or a Competitive Options Trader in any industry index option whose underlying group includes any of his speciality stocks that is a dominant underlying stock.

In addition, the proposed rule change expands the definition of "related security" when used with reference to industry index options to include not only options, futures and options on futures on the same or substantially identical index groups, but also dominant underlying stocks and individuals stock options thereon. This in turn triggers the present requirements in the Exchange's index options rules (1) For account identification, reporting and recordkeeping by options specialists and Competitive Options Traders and (2) for making available books, records and other information.

The Exchange believes that these physical and regulatory barriers, taken together with enhancements to its surveillance program geared to industry index options, the ongoing implementation of its equity audit trail and the completion by the end of March of automation of the options audit trail, will assure that the Exchange has in place a physical and regulatory environment capable of frustrating any unique manipulative opportunities presented by a single self-regulatory organization operating both a market for industry index options and the primary market for most of the underlying stocks.

NMS/OTC Stocks.— As noted above, the Exchange has intergrated into its rules pertaining to stock group composition and trading halts criteria applicable to OTC stocks, including standards that assure each underlying OTC stock will be the subject of real-time reporting of last sale information. The Exchange has also established a cutoff time for inclusion of reports of OTC transactions in closing value calculations. In additions, the Exchange proposes to apply to its members who are OTC market makers in any dominant underlying stock the same prohibitions that it applies to its own equity specialists regarding concurrent registration as a specialist or COT in an industry index option on a stock group including the dominant stock. The Exchange believes that these steps address adequately the unique characteristics of OTC trading that affect the suitability of including OTC stocks in underlying industry index groups.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.*—The general purposes of the proposed rule change are (a) To provide for Exchange trading of industry index options, (b) to propose specific industry index groups for approval by the Commission and (c) to make various technical corrections and improvements in the Exchange's option rules.

The particular purposes of the changes of substance included in the proposed rule change are summarized in the Exchange's response to Item I.

(2) *Statutory Basis.*—The statutory basis for the proposed rule change in section 6(b)(5) of the 1934 Act in that the trading of industry index options will serve investors by enabling them to hedge against risk associated with a particular industry.

In addition, the proposed rule change relates to section 6(b)(1) of the 1934 Act in that it will provide a regulatory framework for a market on the Floor in industry index options. The proposed rule change will give the Exchange the capacity to carry out the purposes of the 1934 Act, to comply with the provisions of the 1934 Act, the rules and regulations thereunder and the rules of the Exchange, and to enforce compliance therewith by members, Option Trading Right ("OTR") holders, and persons associated with members and OTR holders.

Except for the changes necessary or appropriate to accommodate the trading of industry index options on the Floor, the Exchange's recently-approved option rules apply to the Exchange's proposed market in industry index options. Those option rules in turn generally apply the Exchange's stock and bond rules, and hence the bases and policies underlying those rules, to Exchange-traded options. Thus, the proposed rule change contemplates the application to Exchange trading of industry index options of long-established regulatory principles and techniques that are designed to assure the fairness, orderliness and quality of the Exchange's stock and bond markets.

In particular, the proposed rule change would apply to industry index options rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in industry index options, all as required by section 6(b)(5) of the 1934 Act. The Exchange believes that its proposed market for industry index will be consistent with the standards of section 6(b)(5), since the Exchange expects such a market to provide increased investment flexibility with respect to portfolios of stocks similar to that provided by the options markets on other national securities exchanges with respect to individual stocks. Consequently, the Exchange believes the public interest will be advanced by Exchange trading of industry index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that neither the proposed rule change nor the existing rules as amended by 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

The Exchange has not solicited, and

does not intend to solicit comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of, Market Regulation, pursuant to delegated authority.

Dated: November 3, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30696 Filed 11-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23107; (70-6047)]

Middle South Utilities, Inc.; Proposal To Extend Period During Which Common Stock May Be Issued and Sold to Trustee Under an Employee Stock Ownership Plan

November 7, 1983.

Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By orders dated September 20, 1977, January 30, 1979, June 25, 1980, and November 6, 1981, in this proceeding (HCAR Nos. 20183, 20904, 21641, and 22262), Middle South was authorized to make available, issue, and sell, for acquisition by First National Bank of Commerce, New Orleans, Louisiana, as Trustee ("Trustee") under the Employee Stock Ownership Plan of Middle South Utilities, Inc. and Subsidiaries ("Plan"), directly from Middle South, through December 31, 1983, up to $300,000 authorized but unissued shares of common stock, $5 par value ("Additional Stock"). Middle South now proposes to extend the period from December 31, 1983, to December 31, 1985, during which Middle South may offer, issue, and sell the Additional Stock directly to the Trustee under the Plan. Middle South currently estimates that the balance of the Additional Stock remaining unissued as of October 27, 1983, namely 69,114 shares, should be sufficient, based upon the recent market value of its common stock and Middle South's current tax position, to satisfy the requirements of the Plan through December 31, 1985. The proceeds derived by Middle South through the issuance and sale of the balance of the Additional Stock will be applied toward the reduction of the then outstanding bank loans and for other corporate purposes.

The application-declaration, as now amended, and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 5, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant 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 the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30695 Filed 11-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13517; (812-5663)]

Nationwide Life Insurance Company and Nationwide Multi-Flex Variable Account; Application for an Order

November 7, 1983.

Notice is herey given that Nationwide Mutual Life Insurance Company ("Nationwide"), One Nationwide Plaza, Columbus, Ohio 43216, a stock life insurance company organized under the laws of the State of Ohio, and Nationwide Multi-Flex Variable Account ("Account"), a separate account registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on September 28, 1983 for an order pursuant to Section 6(c) of the Act granting exemptions from the provisions of sections 22(e), 27(c)(1), and 27(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

The Account was established by Nationwide in connection with the sales of certain individual variable annuity contracts ("Contracts"). Applicants request the above exemptions to permit the Account to comply with certain provisions of Texas law that impose restrictions on redemption of the Contracts that are sold to certain employees of Texas institutions of higher education that are inconsistent with these provisions of the Act.

Applicants represent that as a condition of this relief they will: (1) Include appropriate disclosure regarding redemption restrictions in each prospectus and in all sales literature used in the Texas Optional Retirement Program ("Texas ORP") market; (2) instruct Texas ORP salespersons to bring restrictions on redemption to the attention of potential purchasers; and (3) obtain from each purchaser a signed statement indicating that he is aware that these restrictions will be placed on his Contract when issued.

Noticea is further given than any interested person wishing to request a hearing on the application may, not later than Novembver 29, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated below. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30697 Filed 11-14-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-24]

Exemption Petitions; Summary and Dispositions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 6, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 8, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23805	Department of Interior	14 CFR 91.79 (b) and (c)	To allow relief from these sections to permit accomplishment of fire suppression activities, enforcement of Federal game and trespass regulations, environmental protection surveys, and volcano monitoring, and eruption documentation.
23804	Big Sky Airlines	14 CFR 135.181	To permit petitioner to operate Swearingen Metro II Aircraft on routes where the minimum enroute altitude exceeds the single engine service ceiling of the aircraft by using a draft-down procedure described in § 121.201(b).
23785	Reeve Aleutian Airways, Inc	14 CFR 121.407(a)(1)	To permit certain maneuvers and procedures allowable under the nonvisual simulator classification of applicable appendices of Parts 61 and 121 to be approved for accomplishment in Simulator Training Inc.'s Lockheed Electra L-188 training devices.
23800	Simulator Training, Inc	14 CFR 121.407(c)(1)	To permit certain maneuvers and procedures allowable under the nonvisual simulator classification in Appendix A of Part 61 to be approved for accomplishment in Simulator Training Inc.'s Lockheed Electra L-188 training device.
23790	Capitol Air	14 CFR 121.349	To permit Capitol Air to occasionally substitute a single Omega navigation system for one of the two required automatic direction finder navigation systems required for operation from the East Coast of the United States to Puerto Rico.
23796	Corporate Jets, Inc	14 CFR 135.261(b)	To permit petitioner to operate helicopters in a hospital ambulance service with each pilot given at least 8 consecutive hours (rather than ten) of rest during any 24-hour period of duty.
23789	Price Corp.	14 CFR 21.181	To permit petitioner to operate its Falcon 10 aircraft, Registration Nos. N654PC and N656PC, using the provisions of a minimum equipment list.
23670	Kaiser Air, Inc.	14 CFR 121.507 and 121.509	To permit petitioner, a Part 135 operator, to use the three-and four-plot crew provisions of these sections rather than § 135.261.
23769	Gulf Air Inc	14 CFR 121.407(a)(1)	To permit certain maneuvers and procedures allowable under the nonvisual simulator classification of applicable appendices of Parts 61 and 121 to approved for accomplishment in Simulator Training, Inc.'s Lockheed Electra L-188 training device.
22441	United Airlines	14 CFR 121.433(c)(i)(ii), 121.411(a)(1), Appendix F of Part 121.	To extend and amend Exemption 3451, which expires on February 1, 1984, and which permits petitioner to conduct an FAA-monitored program under which UAL pilots in command, second in command, and flight engineers will meet the annual proficiency check requirements, subject to conditions and limitations. The amendment would modify certain of the conditions.
22473	Ransome Airlines	14 CFR 93.123, 93.125, 93.129	To extend Exemption 3752 to June 1, 1985. The present exemption permits scheduled air taxis to conduct a limited number of reservation-free operations at Washington National Airport on portions of runways under certain conditions. The present exemption expires January 1, 1984.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
* 23771	Cessna Aircraft Co	14 CFR 91.213	To permit the operators of Cessna citation airplanes, Models 550 and 552, that otherwise meet the minimum crew requirements of § 25.1523 with a single pilot to operate those airplanes without a second in command.

* This petition was previously published in its entirety on October 12, 1983 (49 FR 46358). The comment period is reopened until December 12, 1983, in response to petitions from Air Line Pilots Association and National Business Aircraft Association. The petitioners indicated additional comment time was needed due to the complexity of the subject.

PETITIONS FOR RECONSIDERATION

Docket No.	Petitioner	Regulations affected	Description of relief sought
18920	World Airways, Inc	14 CFR 65.51, 121.105, 121.107, 121.395, 121.465, 121.533, 121.535, 121.593, 121.599, and 121.801.	To reconsider the Partial Grant of Exemption 2947C, issued on April 29, 1983, to permit petitioner to conduct scheduled passenger service for a 90-day period over certain routes, authorized by the CAB, utilizing the flight control/dispatch procedures, communication procedures, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers. *Denied Oct. 21, 1983.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22820	Kodiak Western Alaska Airlines, Inc	14 CFR 91.39, 121.157, and 125.1	To permit petitioner to operate two restricted category C-119L aircraft for compensation or hire in a unique outsize cargo-carrying operation in the State of Alaska. *Denied Oct. 21, 1983.*
23593	AMAX Coal Co	14 CFR 91.23(a)(2)	To permit petitioner to operate its Bell 222 under the Instrument Flight Rules without an alternate fuel reserve. *Denied Oct. 21, 1983.*
23643	Denver Charters, Inc	14 CFR 135.261(b)	To permit petitioner to use flight crewmembers who have had only 9 consecutive hours of rest during the 24-hour period preceding the planned completion of a flight assignment. *Denied Oct. 21, 1983.*
23605	National Air Transportation Assn	14 CFR 135.219 and 135.221	To permit petitioner's air taxi operator members to dispatch or release an aircraft to an airport even though weather reports or forecasts or any combination thereof contain statements that weather conditions will be or may be "occasionally," "intermittently," "briefly," or have "a chance of" being below authorized minimums at the estimated time of arrival, so long as there is at least one alternate airport for which weather reports or forecasts do not include such language. *Denied Oct. 21, 1983.*
22703	Emerald Airlines	14 CFR 91.307	To amend Exemption No. 3470 to add one aircraft. The present exemption allows operation in the United states, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 3 DC-9-15F N50AF, N72AF, N66AF, and 2 DC-9-14 N38641 and N626TX *Granted Oct. 24, 1983.*
22279	Pacific Coast Airlines	14 CFR 61.31(a)(1)	To permit petitioner's presently qualified HP-137 pilots in command to operate the HP-137 recertificated in accordance with SFAR-41 without possessing type rating for the recertificated airplane. *Granted Oct. 24, 1983.*
23793	Pan American World	14 CFR 91.200(b)	To allow the operation of Boeing B-707 aircraft, N880PA, without it being equipped with the required combined safety belt and shoulder harnessess. *Granted Oct. 24, 1983.*
23698	Flight Dynamics, Inc	14 CFR 21.195(b)	To permit petitioner to apply for an experimental certificate for an aircraft to be used for market survey or sales demonstrations, subject to certain limitations. *Granted Oct. 19, 1983.*
23629	Sunworld Int'l. Airways, Inc	14 CFR 91.307	To amend Exemption No. 3759 to add two aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 4 DC-9: N1301T, N951L, N9102, and N13-2T. *Granted Oct. 27, 1983.*
20520	KLM Royal Dutch	14 CFR 11.25(b)(1)	To extend Exemption 3036A, to permit petitioner to continue to operate three Boeing B-747-206B aircraft, N1295E, N1298E, and N1309E, using an FAA-approved minimum equipment list. Termination date extended to September 30, 1985. *Granted Sept. 30, 1983.*

[FR Doc. 83-30688 Filed 11-14-83; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 156—Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard to be held on December 1-2, 1983, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review Committee Terms of Reference; (3) Discussion on the Extent of the Problem; (4) Review of Findings and Recommendations Contained in RTCA Document DO-119 "Interference to Aircraft Electronic Equipment from Devices Carried Aboard" Dated April 1963; (5) Develop Committee Work Program and Schedule for Accomplishment; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman,

members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 4, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-30687 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 135—Environmental Conditions and Test Procedures for Airbone Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 135 on Environmental Conditions and Test Procedures for Airborne Equipment to be held on December 7-9 1983 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Meeting Held on June 15, 1983; (3) Review and Discussion of Proposed Changes to RTCA Document DO-160A, "Environmental Conditions and Test Procedures for Airborne Equipment"; (4) Report on the Status of Coordination with the European Organization for Civil Aviation Electronic (EUROCAE); and (5) Other Business

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500 Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 4, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-30686 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Maritime Advisory Committee, Working Group on Finance; Meeting

AGENCY: Maritime Administration, DOT

ACTION: Notice.

SUMMARY: The Maritime Advisory Committee's Working Group on Finance will meet on Monday, December 19, 1983, at 10 a.m. The meeting will be held in Suite 1000, 434 Walnut Street, Philadelphia, PA. The agenda will include a discussion of ways to reduce financing costs for ship construction, in order to assist in making the U.S. maritime industry more competitive in worldwide marine transportation. The meeting will be open to the public on a space available basis.

By order of the Maritime Administrator.

Dated: November 9, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-30753 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. IP83-17; Notice 1]

Blue Bird Body Company; Receipt of Petition for Determination of Inconsequentiality

Blue Bird Body Company of Fort Valley, Georgia, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.217, Motor Vehicle Safety Standard No. 217, *Bus Window Retention and Release*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and 49 CFR Part 556, and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.4.2.1(a) of Standard No. 217 is intended to insure adequate space exists at the rear emergency door, facilitating the exit of school bus passengers. It accomplishes this by requiring that there be "an opening large enough to permit unobstructed passage of a rectangular parallelepiped 45 inches high, 24 inches wide, and 12 inches deep * * * ." Blue Bird has reported that a noncompliance exists with this requirement by a protrusion of the top, rear inboard corner of the left rear passenger seat into the spatial clearance required for the passage for the parallelepiped, specifically, a ¼ inch to ½ inch interference in the 12 inch dimension. Expressed another way, the portion of the seat back protruding is approximately 1 cubic inch of foam and upholstery while the overall volume of the parallelepiped in 12960 cubic inches.

The noncompliance occurred because the left rear seat was installed approximately ½ inch too far rearward, in order to clear a floor joint (since the discovery of the noncompliance, the seat has been mounted ¼ inch ahead of the joint). Although each of the noncompliant buses had been tested with a parallelepiped, the inspection personnel had erroneously assumed that a slight compression of the seat back foam by the test fixture was acceptable. There are 263 school busses involved, manufactured from May 1979 to July 1983. The model concerned is the 66-passenger Conventional.

Blue Bird argues that the noncompliance is inconsequential because the intrusion of the seat back is so slight, and because the seat can be easily compressed.

Interested persons are invited to submit written data, views, and arguments on the petition of Blue Bird Body Company described above. Comments should refer to the docket number and submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 15, 1983.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 3, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-30758 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-231]

Reimbursable Services; Excess Cost of Preclearance Operations

November 2, 1983.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 13, 1983.

Installation	Biweekly excess cost
Montreal, Canada	$20,727
Toronto, Canada	37,208
Kindley Field, Bermuda	6,196
Nassau, Bahama Islands	19,067
Vancouver, Canada	15,011
Winnipeg, Canada	3,085
Freeport, Bahama Islands	8,520
Calgary, Canada	8,340
Edmonton, Canada	5,853

John L. Heiss,

Acting Comptroller.

[FR Doc. 83-30754 Filed 11-14-83; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Establishment of the Artistic Ambassador Advisory Committee

In accordance with Section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I) and Federal Advisory Committee Management Interim Regulations, (41 CFR 101-6.10), I hereby certify that establishment of the Artistic Ambassador Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the United States Information Agency by law.

The Artistic Ambassador Advisory Committee will consist of three public members, renowned for their expertise in the field of classical music, who will judge the live performances of candidates and make selections from the group of those considered to be the most representative of the United States and its culture. Successful candidates will represent the United States through public performances abroad of classical music and through corollary activities such as involvement in local music communities and living with host families.

In accordance with the provisions of 41 CFR 101-6.1015, GSA has granted a waiver of the 15 day requirement for the immediate filing of the committee charter in view of the scheduled meeting of November 16, 1983.

Dated: November 9, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-30851 Filed 11-14-83; 8:45 am]

BILLING CODE 8230-01-M

Meeting of Artistic Ambassador Advisory Committee

The Artistic Ambassador Advisory Committee will be holding its first sessions on November 16 and 17, 1983.

Committee members will be observing and judging the performances of 14 candidates from the field of classical piano, and selecting three or four finalists to perform overseas under the sponsorship of the United States Information Agency. Successful candidates will live with host families overseas and be involved with local musical communities.

Time: 8:30 a.m. to 12:00 noon and 1:30 p.m. to 6:15 p.m. each day; lunch hour from 12:00 noon to 1:30 p.m.

Place: Coolidge Auditorium, Library of Congress, 10 First Street SE., Washington, D.C. 20540.

Agenda: Seven candidates will perform each day. Each candidate will be given one hour, and there will be a 15 minute break after each performance.

Seating: Seating of the public will be limited to the first 500 people, the capacity of the auditorium.

Final selection of candidates will be decided by the judges during discussions following the final day's performances. This session will be closed to the public in accordance with 5 U.S.C. 552b(c)(9)(B). Public disclosure of discussions would inhibit candid deliberations and advice and therefore is likely to significantly frustrate the implementation of future Agency programs.

For further information contact Marjorie Eagle, on (202) 485-7338.

Dated: November 9, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-30850 Filed 11-14-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "The Art of the European Goldsmith: Silver from the Schroder Collection" (included in the list filed as a part of this determination) imported from abroad for the termporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the American Federal of Arts and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Cooper-Hewitt Museum, beginning on or about November 1, 1983, to on or about January 22, 1984; the Art Institute of Chicago, Chicago, Illinois, beginning on or about May 27, 1984, to on or about July 22, 1984; Center for the Fine Arts, Miami, Florida, beginning on or about September 8, 1984, to on or about October 21, 1984; San Diego Museum of Art, San Diego, California, beginning on or about November 11, 1984, to on or about January 6, 1985; Dallas Museum of Fine Arts, Dallas, Texas, beginning on or about February 3, 1985, to on or about May 30, 1985; New Orleans Museum of Art, begining on or about July 21, 1985, to on or about September 15, 1985; Worcester Art Museum, Worcester, Massachusetts, beginning on or about October 15, 1985, to on or about December 8, 1985; the Toledo Museum of Art, Toledo, Ohio, beginning on or about January 12, 1986, to on or about March 9, 1986; and Denver Art Museum, Denver, Colorado, beginning on or about April 6, 1986, to on or about June 1, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: November 9, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-30893 Filed 11-10-83; 4:56 pm]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Auspicious Spirits: Korean Folk Paintings and Related Objects" (included in the list filed as a part of this determination)

imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the International Exhibitions Foundation and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Asia Society Gallery, New York, New York, beginning on or about December 8, 1983, to on or about January 22, 1984; New Orleans Museum of Art, New Orleans, Louisiana, beginning on or about February 11, 1984, to on or about March 25, 1984; Honolulu Academy of Arts, Honolulu, Hawaii, beginning on or about April 14, 1984, to on or about May 27, 1984; Asian Art Museum of San Francisco, San Francisco, California, beginning on or about June 15, 1984, to on or about July 29, 1984; Philbrook Art Center, Tulsa, Oklahoma, beginning on or about August 18, 1984, to on or about October 14, 1984; and Los Angeles County Museum of Art, Los Angeles, California, beginning on or about November 8, 1984, to on or about January 6, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: November 9, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-30884 Filed 11-14-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19,1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of Marcch 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Leonardo's *Last Supper:* Before and After" (included in the list filed as a part of this detemination) import from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the National Gallery of Art and foreign lenders. I also detemine that the temporary exibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about December 18, 1983, to on or about March 18, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: November 9, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-30885 Filed 11-14-83; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Performance Review Board Members

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice revises the lists of members of the Veterans Administration's Performance Review Boards which were published in the **Federal Register** 47 FR 42862 and 42863, dated September 29, 1982 and 48 FR 26692, dated June 9, 1983.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: K. Joyce Edwards, Office of Personnel and Labor Relations (05A3), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202-389-3423).

The Members of the VA's Performance Review Boards Are:

VA Performance Review Board

Chairperson

Everett Alvarez, Jr., Deputy Administrator

Members

Donald L. Curtis, M.D., Chief Medical Director
Dorothy L. Starbuck, Chief Benefits Director
Paul T. Bannai, Chief Memorial Affairs Director
Anthony J. Principi, Associate Deputy Administrator for Congressional and Public Affairs
Dominick Onorato, Associate Deputy Administrator for Information Resources Management
William F. Sullivan, Associate Deputy Administrator for Logistics
John P. Murphy, General Counsel
Kenneth E. Eaton, Chairman, Board of Veterans Appeals
Jack J. Sharkey, Director, Office of Data Management and Telecommunications
Conrad R. Hoffman, Director, Office of Budget and Finance (Controller)
Joseph Mancias, Jr., Director, Office of Public and Consumer Affairs
Raymond S. Blunt, Director, Office of Program Planning and Evaluation
William A. Salmond, Director, Office of Construction
Michael Rudd, Director, Office of Personnel and Labor Relations
Clyde C. Cook, Director, Office of Procurement and Supply
Robert W. Schultz, Director, Office of Reports and Statistics
Renald P. Morani, Assistant Inspector General for Policy, Planning and Resources

Alternates

John A. Gronvall, M.D., Deputy Chief Medical Director
John W. Hagan, Jr., Deputy Chief Benefits Director
Vincent L. Corrado, Deputy Chief Memorial Affairs Director

Department of Medicine & Surgery Performance Review Board

Chairperson

D. Earl Brown, Jr., M.D., Associate Deputy Chief Medical Director

Members

James A. Christian, Executive Assistant to Chief Medical Director
Joseph F. Heavey, Executive Assistant to Deputy Chief Medical Director
Francis E. Conrad, M.D., Deputy Associate Deputy Chief Medical Director for Operations
Charles V. Yarbrough, Director, Management Support Staff
James T. Krajeck, Director, Northeast Region
Donald B. Thompson, Director, Southeast Region
Albert Zamberlan, Director, Great Lakes Region
Thomas P. Mullon, Director, Mid-Western Region
Daniel E. Cooney, Director, Western Region
Alvis B. Carr, Jr., Director, Mid-Atlantic Region

Department of Veterans Benefits Performance Review Board

Chairperson

John W. Hagan, Jr., Deputy Chief Benefits Director

Members

David M. Walls, Field Director, Eastern Region
John W. Rue, Field Director, Central Region

John P. Travers, Field Director, Western Region
Max R. Woodall, Director, Compensation and Pension Service
Edward D. Green, Director, Veterans Assistance Service
Robert M. O'Tool, Director, Loan Guaranty Service
Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service
Charles L. Dollarhide, Director, Education Service
Donald M. Twitty, Director, Budget Staff
Fredrick A. Schatz, Director, Administrative Service
Richard A. Rehling, Director, Management and Manpower Staff

Office of the Inspector General Performance Review Board

Chairperson

James Curry, Assistant Inspector General for Internal Audit Oversight and Policy, Department of Defense

Members

Joseph Genovese, Assistant Inspector General for Auditing, Department of Transportation
John P. Murphy, General Counsel, Veterans Administration

Alternates

Charles Gillum, Deputy Inspector General, General Services Administration
Frank DeGeorge, Deputy Inspector General, Department of Commerce
John Yazurlo, Deputy Inspector General, Department of Education
Dominick Onorato, Associate Deputy Administrator for Information Resources Management

Dated: November 8, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-30736 Filed 11-14-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 221
Tuesday, November 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).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:10 p.m. on Wednesday, November 9, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Application of Commerce Saving Columbus, Inc., an operating noninsured industrial bank located at 2305 23rd Street, Columbus, Nebraska, for Federal deposit insurance.

Application of Commerce Savings Lincoln, Inc., and operating noninsured industrial bank located at 516 S. 13th Street, Lincoln, Nebraska, for Federal deposit insurance.

Application of Commerce Savings Scottsbluff, Inc., an operating noninsured industrial bank located at 18 West 16th Street, Scottsbluff, Nebraska, for Federal deposit insurance.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings against certain insured banks: Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel action regarding appointments, promotions, administrative pay increases, reassignments, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

In calling the meeting, the Board 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 its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: November 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1596-83 Filed 11-10-83; 4:04 pm]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Thursday, November 17, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed elimination of the specific public benefits requirement in Regulation Y (Bank Holding Companies and Change in Bank Control) regarding credit life and accident and health insurance underwriting by bank holding companies.

2. Proposed change in boundaries of the Tenth and Eleventh Districts of the Federal Reserve System.

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 9, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1593-83 Filed 11-10-83; 9:01 am]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Thursday, November 17, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 9, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1594-83 Filed 11-10-83; 9:01 am]

BILLING CODE 6210-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, November 10, 1983 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, November 10:*

9:30 a.m.

Discussion/Possible Vote on Secy-83-293—Amendments to 10 CFR 50 Related to Anticipated Transients Without Scram (ATWS) Events (Public Meeting) (Time Change)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (Items Revised):

a. Amendments to 10 CFR 50 Related to Hydrogen Control (*Postponed*)

b. Proposed Final Rule—Deletion of Exception Filing Requirement for Appeal from Initial Decisions

c. Final Rulemaking Concerning Fitness for Duty for Personnel (*Postponed*)

d. Final Immediate Effectiveness Order for San Onofre 2 and 3

ADDITIONAL INFORMATION: Discussion of Treatment of Management Issues in TM-1 Restart Proceeding scheduled for 9:30 a.m., November 10, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording) (202) 634–1498).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

November 10, 1983.

Walter Magee,

Office of the Secretary.

[S–1595–83 Filed 11–10–83; 2:40 pm]

BILLING CODE 7590–01–M

5

LEGAL SERVICES CORPORATION

TIME AND DATE: 11:00 A.M. to 4:00 P.M., Monday, November 21, 1983.

PLACE: Stouffers Riverfront Towers, Mississippi Room, 200 South 4th Street, Saint Louis, Missouri 63102.

SATATUS OF MEETING: Open [Portion of Meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under 45 CFR 1622.5(a)(e) (f) and (h)].

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes.
3. Private Attorney Involvement Instruction.
4. Board Resolution on Private Attorney Involvement.
5. Reginald Heber Smith Community Lawyer Fellowship Program.
6. 1984 Budget.
7. 1985 Mark.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Date Issued: November 10, 1983.

Donald P. Bogard,

President.

[S–1598–83 Filed 11–14–83; 8:45 am]

BILLING CODE 6820–35–M

6

LEGAL SERVICES CORPORATION

Provision for the delivery of Legal Services Committee Meeting.

TIME AND DATE: 9:00 A.M. to 10:30 A.M., Monday, November 21, 1983.

PLACE: Stouffers Riverfront Towers, Mississippi Room, 200 South 4th Street, Saint Louis, Missouri 63102.

STATUS OF MEETING: Open.

MATTERS TO BE CONSINERED: Panel Discussion on Privately Funded Legal Aid Programs.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Date issued: November 10, 1983.

Donald P. Bogard,

President.

[S–1599–83 Filed 11–14–83; 8:45 am]

BILLING CODE 6820–35–M

federal register

Tuesday
November 15, 1983

Part II

Department of Transportation

Federal Aviation Administration

Airworthiness Standards and Operating Rules; Commuter Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, and 135

[Docket No. 23516; Notice 83-17]

Airworthiness Standards and Operating Rules; Commuter Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend Parts 21, 23, 36, 91, and 135 of the Federal Aviation Regulations (FAR) to adopt certification procedures, airworthiness and noise standards, and operating rules for an additional category of propeller-driven, multiengine airplane, designated as the Commuter Category. Amendment of Part 21 is proposed to allow certification of commuter category airplanes by the same procedures as other aircraft. Amendment of Part 23 is proposed to include additional airworthiness standards for airplanes with a maximum seating capacity, excluding pilot seats, of 19 or less, a maximum certificated takeoff weight of 19,000 pounds or less, and which comply with the International Civil Aviation Organization (ICAO) Annex 8, Part III, requirements. Amendment of Part 36 is proposed to require commuter category airplanes be certificated to the noise standards applicable to small, propeller-driven airplanes. In addition to the proposals related to certification procedures, and airworthiness and noise standards, the FAA is proposing amendments to the operating rules applicable to the commuter category airplane. The proposed amendments recognize and allow operation of the commuter category airplane in essentially the same manner as an airplane certificated to the airworthiness standards of SFAR No. 41. Special Federal Aviation Regulation (SFAR) No. 41 contained interim airworthiness standards for propeller-driven, multiengine airplanes of a size similar to that proposed for the commuter category and this regulation expired on September 13, 1983. The objective of this rulemaking activity is to develop permanent airworthiness and noise standards and operating rules for propeller-driven, multiengine airplanes of the commuter category.

DATE: Comments must be received on or before February 14, 1984.

ADDRESS: Comments on this notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23516, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked Docket No. 23516. Comments may be inspected in Room 916 between 8:30 a.m. and 5:00 p.m. on weekdays, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23516." The postcard will be date/time stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

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

Background

Since 1953, the airworthiness standards have distinguished small from large airplanes by a 12,500-pound maximum certificated takeoff weight (MCTW) limitation regardless of the type of operation. When this weight limitation was established, there was little concern that this demarcation would eventually become questionable with regard to the airworthiness standards for an airplane of the commuter category. At that time, there were few airplane designs near this 12,500-pound limitation; that is, they were either considerably above or below that weight.

In 1966, the FAA established an air taxi airworthiness program with the objective of providing a transition for air taxi airplanes from small airplane requirements of Part 23 to the transport category airplane requirements of Part 25 of the Federal Aviation Regulations. That program resulted in the issuance of SFAR No. 23 (34 FR 189, Jan. 7., 1969).

In 1977, the FAA/Industry Commuter Aircraft Weight Review Committee submitted a petition to amend the regulations to allow certain small airplanes to be type certificated at maximum certificated takeoff weights greater than the 12,500-pound limitation without complying with the requirements of Part 25. Responding to that and other needs for improved standards resulting from the Airline Deregulation Act, the FAA initiated a three-phase program for certification and operation of commuter airplanes. The first phase was the issurance of a revised Part 135—Air Taxi Operators and Commercial Operators (43 FR 46742, Oct. 10, 1978), which aligned the rules for those operations more closely with those of Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft. The second phase was initiated by issuance of Notice No. 78-14 (43 FR 46734, Oct. 10, 1978), which proposed temporary rules for additional airworthiness requirements to provide for increased takeoff gross weight and passenger seating capacity of certain existing small, propeller-driven, multiengine airplanes. The outcome of this Notice was the adoption of SFAR No. 41 (44 FR 53723, Sept. 17, 1979) which became effective October 17, 1979. The third phase was the establishment of the Light Transport Airplane Airworthiness Review, Notice No. 78-17, (43 FR 60846; Dec. 28, 1978) to develop a separate set of airworthiness standards which resulted in proposed

Part 24 of the Federal Aviation Regulations for multiengine airplanes with a maximum gross weight up to 35,000 pounds and a seating capacity up to 30 passengers. Subsequent considerations and recommendations from industry during the Review escalated the maximum weight and passenger capacity limits to 50,000 pounds and 60 passengers for the light transport category airplane. The Part 24 project was terminated because, based on the information available to the FAA at that time, the economic benefits expected to result from a new light transport airplane airworthiness regulation would not be realized.

Discussions were held with the public concerning the formulation of SFAR No. 41. At the time Notice NO. 78–14 was issued, a maximum zero fuel weight of 12,500 pounds was proposed to increase the utilization of then current Part 23 airplanes that had been certificated with a maximum takeoff weight at or near 12,500 pounds. No objections to this restriction were received during the comment period of Notice No. 78–14.

SFAR No. 41 was designed to fill the gap between Part 23 and Part 25 certification standards until airplanes could be developed and certificated under the proposed Part 24 rule, which was later withdrawn. The interim nature of the SFAR was reflected in the time limits imposed. It required that an application for an aircraft supplemental or amended type certificate under SFAR No. 41 be filed within 2 years after the effective date of the SFAR, and limited production to 10 years for airplanes certificated with maximum takeoff gross weights in excess of 12,500 pounds. The 10-year period was specified to allow for development of new standards for that type of airplane and to allow sufficient time for the airplane manufacturers to amortize the cost of modifying existing designs to comply with SFAR No. 41; thus, production of these airplanes would be economically viable. However, no limitation was established for the operational life of airplanes certificated under SFAR No. 41.

SFAR No. 41 prescribed additional airworthiness standards applicable to existing reciprocating and turbopropeller-powered, small multiengine airplanes. This new regulation allowed type and airworthiness recertification of these airplanes at weights in excess of 12,500 pounds maximum certificated takeoff weight, or with an increase in the number of passenger seats, or both, but imposed a design restriction which limited the maximum zero fuel weight to 12,500 pounds. That regulation was amended by SFAR NO. 41A (45 FR 25046, April 14, 1980), for clarification and editorial corrections. SFAR NO. 41B (45 FR 80972, Dec. 8, 1980) was a further amendment of that regulation to specify additional requirements for optional compliance with the International Civil Aviation Organization (ICAO) Annex 8, Part III, airworthiness standards which apply to airplanes weighing 5,700 kg (12,566 lbs) or more. The expiration date of SFAR NO. 41B was October 17, 1981.

After the expiration of SFAR NO. 41, as amended, on October 17, 1981, and termination of the Light Transport Airplane Airworthiness Review, the FAA reinstated SFAR No. 41, with amendments, as SFAR NO. 41C (47 FR 35150; Aug. 12, 1982) effective September 13, 1982. The amendments of SFAR NO. 41C: (1) Eliminated the 12,500-pound maximum zero fuel weight restriction; (2) limited the number of passenger seats to 19 for those small propeller-driven, multiengine airplanes that operate at a certificated gross takeoff weight in excess of 12,500 pounds; and (3) relaxed the landing distance determination requirement, making it consistent with current Parts 23 and 25. However, the amendments did not address the possible codification of SFAR No. 41 into Part 23 as cited in Notice No. 82–3 which proposed the reinstatement of SFAR No. 41.

Concurrently with this commuter category airplane airworthiness standards rulemaking activity, the FAA is conducting two reviews of airplane airworthiness standards. The first, an announcement of the Small Airplane Airworthiness Review Program, Notice No. CE–83–1, was published in the **Federal Register** on January 31, 1983 (48 FR 4290). The proposal period on this Review has been extended until May 3, 1984 (48 FR 26623, June 9, 1983). The second, a review of Part 25—Airworthiness Standards: Transport Category Airplanes, is in the NPRM development stage. This Part 25 review is examining the airworthiness standards with the view of their applicability, among other considerations, to the light transport airplane as envisioned by the Light Transport Airworthiness Review Program activity. Manufacturers may choose between certificating their propeller-driven, multiengine airplanes, which have a maximum certificated takeoff weight not exceeding 19,000 pounds, in either the transport category or commuter category. The airworthiness standards for commuter category airplanes include all amendments of Part 23 through the amendment establishing the commuter category.

Scope of the NPRM

The scope of this NPRM is limited to the proposals which are considered appropriate as airworthiness and noise standards and operating rules for commuter category propeller-driven, multiengine airplanes. Existing airworthiness standards of Part 23, SFAR No. 41, as supplemented by those airworthiness standards necessary to comply with the requirements developed by the International Civil Aviation Organization (ICAO), and appropriate sections of Appendix A of Part 135, are the foundation for the proposals. The FAA proposes to integrate into Part 23 of the FAR those additional airworthiness standards of SFAR No. 41 and the appropriate sections of Appendix A of Part 135 not previously adopted in Part 23 of the FAR. It is not intended to propose substantive changes to the existing Part 23 airworthiness standards or to the airworthiness standards being integrated into Part 23 by this rulemaking except as discussed in this notice. To accommodate the addition of these airworthiness standards, a number of new sections to Part 23 are proposed. It is proposed to move some of the current requirements to these new sections because the requirements are more appropriate to the subject matter of these sections. As an example, the takeoff speeds, cited in § 23.51 Takeoff, are proposed to be moved to the new § 23.53—Takeoff speeds. In addition, there are two speeds which are considered necessary. These two speeds: (1) The engine failure speed, V_{EF}, and (2) the rotation speed, V_R, are stated in the new § 23.53 Takeoff speeds, and are required in the showing of compliance to the ICAO requirements. The determination of V_R speed is simplified over the determination of V_R speed in Part 25 because of the size and other limitations in the definition of the commuter category.

SFAR No. 41, as amended, references § 25.113(a) of the FAR for the showing of compliance with the takeoff distance part of the ICAO takeoff performance requirements, but does not include consideration of clearway.

The FAA concludes that in those cases where an airport has a defined clearway, the requirements of § 25.113(b) should be applicable for use in determining the takeoff limitations for commuter category airplanes. Therefore, it is proposed to include a requirement for the takeoff run when a clearway is available thereby lessening the length of

the required runway for takeoff performance.

In Notice No. 78-14, the FAA proposed standards for compartment interiors equal to those of § 25.853 of the FAR for type certification of airplanes to the airworthiness standards of SFAR No. 41. As the result of comments received to this proposal, rather than include the proposed standards in SFAR No. 41, the FAA amended the operating rules, Parts 91 and 135, to achieve this objective and respond to the comments received. Sections 91.58 and 135.170, Materials for compartment interiors, of the FAR, state that no person may operate an airplane that conforms to an amended or supplemental type certificate issued in accordance with SFAR No. 41 for a maximum certificated takeoff weight in excess of 12,500 pounds, unless within one year after issuance of the initial airworthiness certificate under that SFAR, the airplane meets the compartment interior requirements set forth in § 25.853 (a), (b), (b-1), (b-2), and (b-3) of this chapter, in effect on September 26, 1978. The one-year period was specified to allow the refurbishing of existing airplanes to lessen the burden on operators to take advantage of periods when their airplanes are down for extended periods. This is not the case for new airplanes to be type certificated in the commuter category. Therefore, considering that the number of passengers is the principal safety issue relative to compartment interiors rather than the airplane weight, the FAA is proposing that the materials for commuter category airplane compartment interiors comply with the standards that are equal to those set forth in § 25.853 (a), (b), (b-1), (b-2), and (b-3) of the FAR irrespective of the weight as a requirement for type certification. Since the commuter category airplane may be certificated with 19 passengers, the FAA contends that the traveling public is entitled to the protection afforded by these standards regardless of the weight of the airplane. In addition, Appendix F of Part 23 is proposed to be revised to include an acceptable horizontal test procedure for the showing of compliance with § 23.853 as proposed.

The airworthiness standards of Part 23, through the amendment establishing the new commuter category, and the noise standards of Part 36, Appendix F, will be applicable to all certifications of airplanes in the proposed commuter category.

The FAA is proposing to amend § 91.213, Second-in-command requirements, of Part 91—General Operating and Flight Rules, to allow operation of a commuter category airplane without a pilot who is designated as a second-in-command if that airplane is type certified for operations with one pilot. It is proposed to amend Part 135—Air Taxi Operators and Commercial Operators, by adding a new section stating that for purposes of Part 135, a commuter category airplane is considered a small airplane. Section 135.169, Additional airworthiness requirements, would be amended to include the commuter category airplane as an acceptable airplane for carrying 10 or more passengers in accordance with rules of Part 135. It is further proposed that § 135.399, small nontransport category airplane performance operating limitations, be amended to prohibit operation of commuter category airplanes at weights in excess of the approved weights stated in the Airplane Flight Manual and to require an obstacle clearance requirement similar to that required of large airplanes being used in air transportation.

Economic Impact

A regulatory evaluation has been conducted, and a copy is available in the docket. A copy may be obtained by contacting the person identified above under **FOR FURTHER INFORMATION CONTACT.**

The proposal involves only benefits, and generates no costs since it proposes to allow certification of new airplane designs, capable of carrying up to 19 passengers, to the airworthiness requirements of Part 23 rather than the requirements of FAR Part 25 as is now required.

The benefits of having a commuter category certification in Part 23 are not readily quantifiable. However, based on a study conducted when FAA was considering a new Part 24, the cost of certificating a hypothetical 30-seat aircraft under Part 25 would have cost $8,000,000 more than certificating under SFAR 41, including Part 135, Appendix A. The unit cost of production for the Part 25 certificated aircraft would have been approximately $200,000 higher. It is clear that certification under Part 25 is considerably more expensive than under Part 23.

FAA invites comments on the economic impact of the proposals. Commenters are requested to address any benefits as well as any costs that may be associated with the proposals.

Discussion of Proposal

The Federal Aviation Administration proposes to amend Part 23 of the Federal Aviation Regulations, to expand the applicability and airplane categories of these airworthiness standards, to include airworthiness standards for the commuter category airplane by incorporating the airworthiness standards of SFAR No. 41, including those applicable sections of Appendix A of Part 135 of the FAR. In addition, those requirements necessary to show compliance with the airworthiness standards of ICAO Annex 8, Part III; for example, a determination of the takeoff path, the accelerate-stop distance, performance scheduling considering weight/altitide/temperature variations, are proposed for the commuter category airplane. The FAA concludes that the level of safety for the commuter category airplane should not be less than the minimum level of safety as recognized by the signatory States to the Convention on International Civil Aviation and should be limited to propeller-driven, multiengine airplane having a seating configuration, excluding pilot seats, of 19 or less, and a maximum certificated takeoff weight of 19,000 pounds or less. SFAR No. 41C removed the 12,500-pound maximum zero fuel weight restriction and established a 19-passenger limit. Since SFAR 41C is applicable to derivative models of previously type certificated small airplanes, the maximum certificated weight is limited by practical considerations. No such restraint exists for the new commuter category and, therefore, the 19,000-pound maximum certificated takeoff weight is proposed to provide equivalent restraint in the size of new airplane to be certificated in the commuter category.

The level of safety established by the proposed airworthiness standards for the commuter category airplane are considered, to the maximum feasible extent, equivalent to those provided by the airworthiness standards for larger airplanes used in air transportation.

Expanding Part 23 to include the commuter category makes it necessary to add clarifying language to some existing requirements, and add new requirements that will not be applicable to all categories of part 23 airplanes.

For example, many current requirements of Part 23 will be limited to the normal, utility, and acrobatic categories, with the commuter category requirements stated in a separate paragraph of the applicable section. In those cases, a new lead-in to the current requirements will be added, such as: "For normal, utility, and acrobatic category airplanes, * * *".

In other cases, where the normal, utility, and acrobatic categories have different requirements, the commuter

category will have the same requirements as the normal category. Therefore, where normal category is cited, it will be changed to reflect both normal and commuter categories.

Because of the numerous changes necessary to integrate the existing airworthiness standards of SFAR No. 41, as supplemented by the ICAO Annex 8 requirements and Appendix A of Part 135, into Part 23, it is considered appropriate to provide an explanation to, or the source of the proposals, at the end of each section or paragraph being amended. In the current rule where a requirement applies to all current Part 23 categories of airplanes, and the amended section differentiates between these categories and the new commuter category, the differences are considered self-evident by the identification of the applicability of the requirements. Where an existing requirement applies to all four categories of airplanes; that is, normal, utility, arcobatic, and commuter categories, the airworthiness standards have not been changed in Part 23 of the FAR. The FAA proposes to amend Part 21—Certification Procedures for Products and Parts, to allow certification of the commuter category airplane under the same procedures as other aircraft. With regard to weight and balance reports required by § 21.327 Application, it is proposed that the weight and balance report be based upon an actual weighing of the commuter category airplane in the same manner as is required for transport category aircraft.

Airplanes certificated to SFAR No. 41 have been certificated to standards of Part 36—Noise Standards: Aircraft Type and Airworthiness, which are applicable to small, propeller-driven airplanes. The FAA proposes this same applicability for the commuter category airplane.

The FAA proposes to amend Part 91—General Operating and Flight Rules of the FAR to permit operations of commuter category airplanes without a designated second-in-command pilot if that airplane is type certificated for operation with one pilot. This proposal would relieve operators of an unnecessary economic burden when operating under Subpart D of Part 91 if the airplane is found safe for operation with one pilot.

The FAA proposes to amend Part 135—Air Taxi Operators and Commercial Operators, of the FAR, to allow operation of commuter category airplanes in essentially the same manner as airplanes certificated under SFAR No. 41 except with an enhanced level of safety. A new § 135.4 is proposed to state that for the purposes of Part 135, a commuter category airplane is considered a small airplane irrespective of the maximum certificated takeoff weight. Section 135.169 is proposed to be amended to include commuter category airplane operations as being acceptable for the stated operations. Section 135.399 is proposed to be amended to prohibit operations outside of those approved in the Airplane Flight Manual.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Air transportation, Safety.

14 CFR Part 23

Aircraft, Aviation safety, Safety, Air transportation, Tires.

14 CFR Part 36

Aircraft noise, Type certification.

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Liquor, Narcotics, Pilots, Airspace, Air transportation, Cargo, Smoking, Airports, Airworthiness directives and standards.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Narcotics, Airworthiness, Cargo, Pilots, Airmen, Aircraft, Alcohol, Airports, Hours of work, Hazardous materials, Weapons, Baggage, Transportation, Mail, Helicopters, Smoking, Beverages, Air traffic control, Handicapped, Drugs, Airspace, Chemicals, Airplanes.

The Proposed Amendment

Accordingly, the FAA proposes to amend Parts 21, 23, 36, 91, and 135 of the Federal Aviation Regulations (14 CFR Parts 21, 23 36, 91, and 135) as follows:

1. By amending Part 23 by revising the heading to read as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

§ 23.1 [Amended]

2. By amending § 23.1(a) by removing the word "small" before the word "airplane"; by removing the word "and" before the word "acrobatic"; by adding the words ", and commuter" before the word "categories"; by removing the phrase "that have a passenger seating configuration, excluding pilot seats, of nine seats or less."; and by adding a period after the word "categories".

Explanation: The limitation on airplane weight associated with the word "small" and the limitations on seating configuration in paragraph (a) are being transferred to the descriptions of individual categories in § 23.3 to allow inclusion of the commuter category under the general applicability statement.

3. By amending § 23.3 by revising the introductory text of paragraphs (a), (b), and all of paragraphs (c) and (d); by redesignating paragraph (d) as (e); and by adding a new paragraph (d) to read as follows:

§ 23.3 Airplane categories.

(a) The normal category is limited to airplanes that have a seating configuration, excluding pilot seats, of nine or less, a maximum certificated takeoff weight of 12,500 pounds or less, and intended for nonacrobatic operation. Nonacrobatic operation includes:

* * * * *

(b) The utility category is limited to airplanes that have a seating configuration, excluding pilot seats, of nine or less, a maximum certificated takeoff weight of 12,500 pounds or less, and intended for limited acrobatic operation. Airplanes certificated in the utility category may be used in any of the operations covered under paragraph (a) of this section and in limited acrobatic operations. Limited acrobatic operation includes:

* * * * *

(c) The acrobatic category is limited to airplanes that have a seating configuration, excluding pilot seats, of nine or less, a maximum certificated takeoff weight of 12,500 pounds or less, and intended for use without restrictions, other than those shown to be necessary as a result of required flight tests.

(d) The commuter category is limited to propeller-driven, multiengine airplanes that have a seating configuration, excluding pilot seats, of 19 or less, and a maximum certificated takeoff weight of 19,000 pounds or less, intended for nonacrobatic operation as described in paragraph (a) of this section.

(e) Airplanes may be certificated in more than one category of this part if the requirements of each requested category are met.

§ 23.25 [Amended]

4. By amending § 23.25(a)(2) by inserting the words "and commuter" after the word "normal."

5. By amending § 23.45 by revising paragraph (a) and adding a new paragraph (f) to read as follows:

§ 23.45 General.

(a) Unless otherwise prescribed, the performance requirements of this subpart must be met for still air; and

(1) Standard atmospheric conditions for normal, utility, and acrobatic category airplanes; or

(2) ambient atmospheric conditions for commuter category airplanes.

* * * * *

(f) For commuter category airplanes, the following also applies:

(1) Unless otherwise prescribed, the applicant must select the takeoff, en route, and landing configurations for the airplane;

(2) The airplane configuration may vary with weight, altitude, and temperature, to the extent they are compatible with the operating procedures required by paragraph (f)(3) of this section;

(3) Unless otherwise prescribed, in determining the critical-engine-inoperative takeoff performance, the accelerate-stop distance, takeoff distance, changes in the airplane's configuration, speed, power, and thrust must be made in accordance with procedures established by the applicant for operation in service;

(4) Procedures for the execution of balked landings must be established by the applicant and included in the Airplane Flight Manual; and

(5) The procedures established under paragraphs (f)(3) and (f)(4) of this section must—

(i) Be able to be consistently executed in service by a crew of average skill;

(ii) Use methods or devices that are safe and reliable;

(iii) Include allowance for any time delays in the execution of the procedures, that may reasonably be expected in service.

Explanation: The amendment to paragraph (a) is to incorporate the differences in atmospheric conditions for commuter category airplane testing and paragraph (f) is material from reference sources.

Sources: Part 135, App. A, § 4 (a), (c), (d), (e,), (f), and (g).

6. By amending § 23.51 by removing paragraphs (b) and (c) and making them paragraphs (a) and (b), respectively, of new § 23.53; by redesignating paragraphs (d) and (e) as (b) and (c) respectively; and by adding a new paragraph (d), to read as follows:

§ 23.51 Takeoff.

* * * * *

(d) For commuter category airplanes, takeoff performance and data as required by §§ 23.53 through 23.59 must be determined and included in the Airplane Flight Manual—

(1) For each weight, altitude, and ambient temperature within the operational limits selected by the applicant;

(2) For the selected configuration for takeoff;

(3) For the most unfavorable center of gravity position;

(4) With the operating engine within approved operating limitations;

(5) On a smooth, dry, hard surface runway; and

(6) Corrected for the following operational correction factors:

(i) Not more than 50 percent of nominal wind components along the takeoff path opposite to the direction of takeoff, and not less than 150 percent of nominal wind components along the takeoff path in the direction of takeoff.

(ii) Effective runway gradients.

Explanation: Incorporation of the commuter category expands the requirements related to takeoff to the extent that they can be more clearly set forth in two separate sections, with the new section entitled "Takeoff speeds."

Source: Part 135, App. A, § 5(a) and SFAR 41, § 4(c)(1)(ii), which incorporates § 25.105(d) by reference.

7. By adding a new § 23.53 to read as follows:

§ 23.53 Takeoff speeds.

(a) For multiengine airplanes, the liftoff speed, V_{LOF}, may not be less than V_{MC} determined in accordance with § 23.149.

(b) Each normal, utility, and acrobatic category airplane, upon reaching a height of 50 feet above the takeoff surface level, the airplane must have reached a speed of not less than the following:

(1) For multiengine airplanes, the higher of—

(i) 1.1 V_{MC}; or

(ii) 1.3 V_{S1}, or any lesser speed, not less than V_X plus 4 knots, that is shown to be safe under all conditions, including turbulence and complete engine failure.

(2) For single engine airplanes—

(i) 1.3 V_{S1}; or

(ii) Any lesser speed, not less than V_X plus 4 knots, that is shown to be safe under all conditions, including turbulence and complete engine failure.

(c) For commuter category airplanes, the following applies:

(1) The takeoff decision speed, V_1, is the calibrated airspeed on the ground at which, as a result of engine failure or other reasons, the pilot is assumed to have made a decision to continue or discontinue the takeoff. The takeoff decision speed, V_1, must be selected by the applicant but may not be less than:

(i) 1.10 V_{S1};

(ii) 1.10 V_{MC} established in accordance with § 23.149;

(iii) A speed at which the airplane can be rotated for takeoff and shown to be adequate to safely continue the takeoff, using normal piloting skill, when the critical engine is suddenly made inoperative; or

(iv) V_{EF} plus the speed gained with the critical engine inoperative during the time interval between the instant that the critical engine is failed and the instant at which the pilot recognizes and reacts to the engine failure as indicated by the pilot's application of the first retarding means during the accelerate-stop determination of § 23.55.

(2) The takeoff safety speed, V_2, in terms of calibrated airspeed, must be selected by the applicant so as to allow the gradient of climb required in § 23.57, but must not be less than V_1 or less than $1.2V_{S1}$.

(3) The critical engine failure speed, V_{EF}, is the calibrated airspeed at which the critical engine is assumed to fail. V_{EF} must be selected by the applicant but not be less than V_{MC} determined in accordance with § 23.149.

(4) The rotation speed, V_R, in terms of calibrated airspeed, must be selected by the applicant and may not be less than the greater of the following:

(i) V_1;

(ii) $1.1V_{S1}$;

(iii) 1.1 times V_{MC} established in accordance with § 23.149; or

(iv) The speed determined in accordance with § 23.57(c) that allows attaining the initial climb out speed, V_2, before reaching a height of 35 feet above the takeoff surface.

(5) For any given set of conditions, such as weight, altitude, configuration, and temperature, a single value of V_R must be used to show compliance with both the one-engine-inoperative takeoff and all-engines-operating takeoff requirements:

(i) One-engine-inoperative takeoff determined in accordance with § 23.57; and

(ii) All-engines-operating takeoff determined in accordance with § 23.59.

(6) It must be shown that the one-engine-inoperative takeoff distance, using a normal rotation rate at a speed of 5 knots less than V_R established in accordance with paragraphs (c)(4) and (5) of this section, does not exceed the corresponding one-engine-inoperative takeoff distance determined in accordance with §§ 23.57 and 23.59 using the established V_R. The takeoff distances determined in accordance with § 23.59, and the takeoff, must be safely continued from the point at which the airplane is 35 feet above the takeoff

surface at a speed not less than 5 knots less than the established V_2 speed.

(7) It must be shown, with all engines operating, that marked increases in the scheduled takeoff distances determined in accordance with § 23.59 do not result from over-rotation of the airplane and out-of-trim conditions.

Source: Part 135, App. A, §§ (5)(b) (1) and (2), and SFAR 41, § (4)(c)(1)(ii), which incorporates § 25.111 by reference, which requires determining a V_R in accordance with § 25.107(e). Paragraphs (a) and (b) of this section were moved from current § 23.51 because the subject matter is more appropriate to this section.

8. By adding a new § 23.55 to read as follows:

§ 23.55 Accelerate-stop distance.

For each commuter category airplane, the accelerate-stop distance must be determined as follows:

(a) The accelerate-stop distance is the sum of the distances necessary to—

(1) Accelerate the airplane from a standing start to V_1; and

(2) Come to a full stop from the point at which V_1 is reached assuming that in the case of engine failure, failure of the critical engine is recognized by the pilot at the speed V_1.

(b) Means other than wheel brakes may be used to determine the accelerate-stop distance if that means is available with the critical engine inoperative and—

(1) Is safe and reliable;

(2) Is used so that consistent results can be expected under normal operating conditions; and

(3) Is such that exceptional skill is not required to control the airplane.

Source: Part 135, App. A, § 5(c).

9. By adding a new § 23.57 to read as follows:

§ 23.57 Takeoff path.

For each commuter category airplane, the takeoff path is as follows:

(a) The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1,500 feet above the takeoff surface, or at which the transition from the takeoff to the en route configuration is completed, whichever point is higher.

(1) The takeoff path must be based on the procedures prescribed in § 23.45;

(2) The airplane must be accelerated on the ground to V_{EF} at which point the critical engine must be made inoperative and remain inoperative for the rest of the takeoff; and

(3) After reaching V_{EF}, the airplane must be accelerated to V_2.

(b) During the acceleration to speed V_2, the nose gear may be raised off the ground at a speed not less than V_R. However, landing gear retraction may not be initiated until the airplane is airborne.

(c) During the takeoff path determination, in accordance with paragraphs (a) and (b) of this section—

(1) The slope of the airborne part of the takeoff path must be positive at each point;

(2) The airplane must reach V_2 before it is 35 feet above the takeoff surface, must climb at a steady gradient of not less than 2 percent, and at a speed as close as practical to, but not less than V_2, until it is 400 feet above the takeoff surface;

(3) At each point along the takeoff path, starting at the point at which the airplane reaches 400 feet above the takeoff surface, the available gradient of climb may not be less than—

(i) 1.2 percent for two-engine airplanes;

(ii) 1.5 percent for three-engine airplanes;

(iii) 1.7 percent for four-engine airplanes; and

(4) Except for gear retraction and propeller feathering, the airplane configuration may not be changed, and no change in power or thrust that requires action by the pilot may be made, until the airplane is 400 feet above the takeoff surface.

(d) The takeoff path must be determined by a continuous demonstrated takeoff or by synthesis from segments. If the takeoff path is determined by the segmental method—

(1) The segments must be clearly defined and must be related to the distinct changes in the configuration, power or thrust, and speed;

(2) The weight of the airplane, the configuration, and the power or thrust, must be constant throughout each segment and must correspond to the most critical condition prevailing in the segment;

(3) The flight path must be based on the airplane's performance without ground effect;

(4) The takeoff path data must be checked by continuous demonstrated takeoffs up to the point at which the airplane is out of ground effect and its speed is stabilized, to ensure that the path is conservative relative to the continuous path; and

(5) The airplane is considered to be out of the ground effect when it reaches a height equal to its wing span.

Source: Part 135, App. A, § 6(b) and SFAR 41 § 4(c)(1)(ii), which incorporates § 25.111 by reference.

10. By adding a new § 23.59 to read as follows:

§ 23.59 Takeoff distance and takeoff run.

For each commuter category airplane—

(a) Takeoff distance is the greater of:

(1) The horizontal distance along the takeoff path from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface as determined under § 23.57; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to the point at which the airplane is 35 feet above the takeoff surface, as determined by a procedure consistent with § 23.57.

(b) If the takeoff distance includes a clearway, the takeoff run is the greater of:

(1) The horizontal distance along the takeoff path from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface as determined under § 23.57; or

(2) 115 percent of the horizontal distance along the takeoff path, with all engines operating, from the start of the takeoff to a point equidistant between the point at which V_{LOF} is reached and the point at which the airplane is 35 feet above the takeoff surface, determined by a procedure consistent with § 23.57.

Source: SFAR 41 § 4(c)(1)(ii), which incorporates § 25.113(a) by reference.

11. By adding a new § 23.61 to read as follows:

§ 23.61 Takeoff flight path.

For each commuter category airplane, the takeoff flight path must be determined as follows:

(a) The takeoff flight path begins 35 feet above the takeoff surface at the end of the takeoff distance determined in accordance with § 23.59.

(b) The net takeoff flight path data must be determined so that they represent the actual takeoff flight paths, as determined in accordance with § 23.57 and with paragraph (a) of this section, reduced at each point by a gradient of climb equal to—

(1) 0.8 percent for two-engine airplanes;

(2) 0.9 percent for three-engine airplanes; and

(3) 1.0 percent for four-engine airplanes.

(c) The prescribed reduction in climb gradient may be applied as an equivalent reduction in acceleration along that part of the takeoff flight path at which the airplane is accelerated in level flight.

Source: SFAR 41 § 4(c)(1)(ii), which incorporates § 25.115 by reference.

12. By amending § 23.65 by adding a new paragraph (d) to read as follows:

§ 23.65 Climb: All engines operating.

* * * * *

(d) In addition for commuter category airplanes, performance data must be determined and furnished in the Airplane Flight Manual for variations in weight, altitude, and temperatures at the most critical center of gravity for which approval is requested.

Source: Part 135, App. A, § 20.

13. By amending § 23.67 by inserting the words "normal, utility, and acrobatic category" before the word "reciprocating" in both paragraphs (a) and (b) and before the word "turbine" in paragraph (c); and by adding a new paragraph (e) to read as follow:

§ 23.67 Climb: One engine inoperative.

* * * * *

(e) For commuter category airplanes, the following applies:

(1) The takeoff climb must be determined in accordance with § 23.57; and

(2) For the en route climb, the maximum weight must be determined for each altitude and ambient temperature within the operational limits established for the airplane, at which the steady gradient of climb is not less than 1.2 percent at an altitude 1,500 feet above the takeoff surface, with the airplane in the en route configuration, the critical engine inoperative, the remaining engine at the maximum continuous power or thrust, and the most unfavorable center of gravity.

Source: Part 135, App. A, § 6(c); and SFAR 41, § 4(c)(1)(ii), which incorporates § 25.111 by reference. The two cited sources conflict and thus the altitude of 1,000 feet in § 6(c) of Part 135, Appendix A, is changed to 1,500 feet when incorporated into paragraph (e) above, to conform to the end of the takeoff path as specified in new § 23.57.

14. By amending § 23.75 by adding a new paragraph (g) to read as follows:

§ 23.75 Landing.

* * * * *

(g) In addition, for commuter category airplanes, the following applies:

(1) The landing distance must be determined for standard atmosphere at each weight, altitude, and wind within the operational limits established by the applicant;

(2) A steady gliding approach, or a steady approach at a gradient of descent not greater than 5.2 percent (3°), at a calibrated airspeed not less than $1.3V_{S1}$ must be maintained down to the 50-foot height; and

(3) The landing distance data must include correction factors for not more than 50 percent of the nominal wind components along the landing path opposite to the direction of landing and not less than 150 percent of the nominal wind components along the landing path in the direction of landing.

Source: SFAR 41 § 5(c).

15. By amending § 23.77 by inserting the words "normal, utility, and acrobatic category" before the word "airplane" and by adding an "s" to the word "airplane" in paragraph (a); by inserting the words "normal, utility, and acrobatic category" before the word "turbine" and by adding an "s" to the word "airplane" in the first part of the sentence in paragraph (b); and by adding a new paragraph (c) to read as follows:

§ 23.77 Balked landing.

* * * * *

(c) For each commuter category airplane, the following applies:

(1) With all engines operating, the maximum weight must be determined with the airplane in the landing configuration for each altitude and ambient temperature within the operational limits established for the airplane, with the most unfavorable center of gravity and out-of-ground effect in free air, at which the steady gradient of climb will not be less than 3.3 percent with—

(i) The engines at the power or thrust that is available 8 seconds after initiation of movement of the power or thrust controls from the minimum flight idle position to the takeoff position.

(ii) A climb speed not greater than the approach speed established under § 23.75 and not less than the greater of $1.05V_{MC}$ or $1.10V_{S1}$.

(2) In the approach configuration corresponding to the normal all-engines-operating procedure in which V_{S1} for this configuration does not exceed 110 percent of the V_{S1} for the related landing configuration, the steady gradient of climb may not be less than 2.1 percent for two-engine airplanes, 2.4 percent for three-engine airplanes, and 2.7 percent for four-engine airplanes, with—

(i) The critical engine inoperative, the remaining engines at the available takeoff power or thrust;

(ii) The maximum landing weight; and

(iii) A climb speed established in connection with the normal landing procedures, but not exceeding $1.5V_{S1}$.

Source: SFAR 41, § 4(c)(1)(i), which incorprates § 25.121(d) by reference and Part 135, Appendix A, § 6(a).

16. By amending § 23.161 by revising paragraphs (b) and (c) introductory text, (2) introductory text, and (3) to read as follows:

§ 23.161 Trim.

* * * * *

(b) *Lateral and directional trim.* The airplane must maintain lateral and directional trim in level flight with the landing gear and wing flaps retracted as follows:

(1) For normal, utility, and acrobatic category airplanes, at a speed of $0.9V_H$ or V_C, which is ever lower; and

(2) For commuter category airplanes, at a speed of V_H or V_{MO}/M_{MO}, whichever is lower.

(c) *Longitudinal trim.* The airplane must maintain longitudinal trim under each of the following conditions, except that it need not maintain trim at a speed greater than V_{MO}/M_{MO}:

(1) * * *

(2) A power approach with a 3-degree angle of descent, the landing gear extended, and except for commuter category airplanes, instead of the speeds specified herein, trim must be maintained with a stick force of not more than 10 pounds, down to a speed used in showing compliance with § 23.75 or $1.4V_{S1}$, whichever is lower, and with—

* * * * *

(3) Level flight at any speed with the landing gear and wing flaps retracted as follows:

(i) For normal, utility, and acrobatic category airplanes, at any speed from $0.9V_H$ to either V_X or $1.4V_{S1}$; and

(ii) For commuter category airplanes, at a speed of V_H or V_{MO}/M_{MO}, whichever is lower, to either V_X or $1.4V_{S1}$.

* * * * *

Source: Part 135, App. A, § 8.

17. By amending § 23.173 by revising paragraph (b) to read as follows:

§ 23.173 Static longitudinal stability.

* * * * *

(b) The airspeed must return to within the tolerances specified for applicable categories of airplane when the control force is slowly released at any speed within the speed range specified in paragraph (a) of this section. The applicable tolerances are—

(1) The airspeed must return to within plus or minus 10 percent of the original trim airspeed; and

(2) For commuter category airplanes, the airspeed must return to within plus or minus 7.5 percent of the original trim airspeed for the cruising condition specified in § 23.175(b).

* * * * *

Source: Part 135, App. A, § 9(a).

18. By amending § 23.175 by revising paragraph (b)(1)(i) and by adding a new paragraph (b)(1)(iv) to read as follows:

§ 23.175 Demonstration of static longitudinal stability.

* * * * *

(b) * * *

(1) * * *

(i) The speed need not be less than 1.3 V_{S1}, and for commuter category airplanes, and speed may not be less than a speed midway between V_{MO}/M_{MO} and V_{DF} except that, M_{FC} need not exceed the Mach number at which effective speed warning occurs.

* * * * *

(iv) For commuter category airplanes, maximum takeoff weight.

* * * * *

Source: Part 135, App. A., § 9(b).

19. By amending § 23.333 by inserting the words "and commuter" after the word "normal" in paragraph (b)(3); by adding a new paragraph (c)(1)(iii); and by revising the diagram in paragraph (d) to add additional commuter category gust parameters. The new paragraph and revised illustration read as follows:

§ 23.333 Flight envelope.

* * * * *

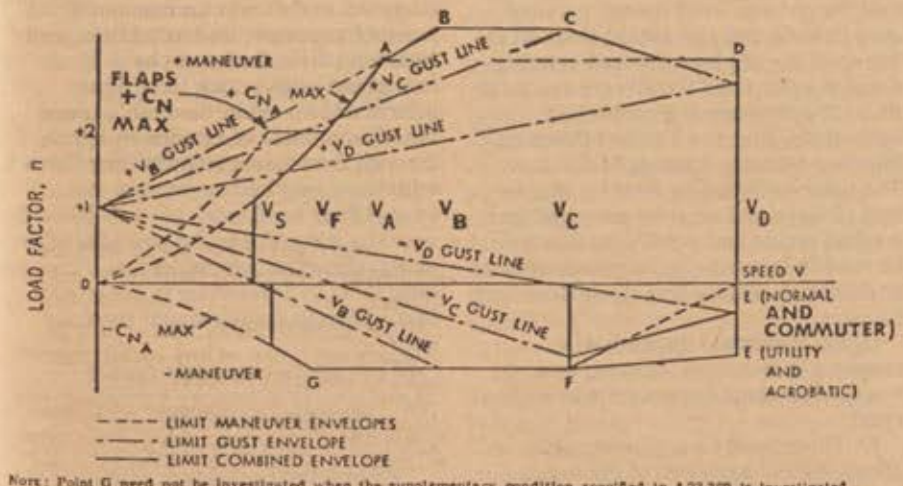
(c) *Gust envelope.* * * *

(1) * * *

(iii) In addition, for commuter category airplanes, positive (up) and negative (down) rough air gusts of 66 f.p.s. at V_B must be considered at altitudes between sea level and 20,000 feet. The gust velocity may be reduced linearly from 66 f.p.s. at 20,000 feet to 38 f.p.s. at 50,000 feet.

* * * * *

(d) *Flight envelope.*



Note: Point G need not be investigated when the supplementary condition specified in § 23.369 is investigated.

Source: SFAR 41, § 4(c)(2), which incorporates §§ 25.341(a)(1) and 25.351(b).

20. By amending § 23.335 by replacing the first "and" with a "," and inserting the words ", and commuter" after the word "utility" in paragraph (a)(1)(i); by inserting the words "and commuter" after the word "normal" in paragraph (b)(2)(i); and by adding a new paragraph (d) to as follows:

§ 23.335 Design airspeeds.

* * * * *

(d) *Design speed for maximum gust intensity,* V_B. For V_B, the following applies:

(1) V_B may not be less than the speed determined by the intersection of the line representing the maximum positive lift $C_{N\ MAX}$ and the line representing the rough air gust velocity on the gust $V-n$ diagram, or $(\sqrt{n_g})\ V_{S1}$, whichever is less, where:

(i) n_g the positive airplane gust load factor due to gust, at speed V_C (in accordance with § 23.341), and at the particular weight under consideration; and

(ii) V_{S1} is the stalling speed with the flaps retracted at the particular weight under consideration.

(2) V_B need not be greater than V_C.

Source: SFAR 41 § 4(c)(2), which incorporates § 25.335(d) by reference.

21. By amending § 23.337 by inserting the words "and commuter" before the word "category" in paragraph (a)(1); and by removing the word "and" and by inserting ", and commuter" before the word "categories" in paragraph (b)(1).

22. By amending § 23.349 by revising paragraph (a)(2) to read as follows:

§ 23.349 Rolling conditions.

* * * * *

(a) * * *

(2) For normal, utility, and commuter categories, in Condition A, assume that 100 percent of the semispan wing airload acts on one side of the airplane and 70 percent of this load acts on the other side. For airplanes of more than 1,000 pounds design weight, the latter percentage may be increased linearly with weight up through 75 percent at 12,500 pounds to the maximum gross weight of the airplane.

* * * * *

Explanation: To allow the existing linear extrapolation from 1,000 pounds to 12,500 pounds to be extended to the maximum gross weight of a commuter category airplane.

Source: SFAR 41, paragraph (1)(b).

23. By amending § 23.443 by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) respectively; and by adding a new paragraph (b) to read as follows:

§ 23.443 Gust loads.

* * * * *

(b) In addition, for commuter category airplanes, the airplane is assumed to encounter derived gusts normal to the plane of symmetry while in unaccelerated flight at V_B, V_C, V_D, and V_F. The derived gusts and airplane speeds corresponding to these conditions, as determined by §§ 23.341 and 23.345, must be investigated. The shape of the gust must be as specified in § 23.333(c)(2)(i).

* * * * *

Source: SFAR 41, § 4(c)(2), which incorporates FAR 25.351(b) by reference.

24. By amending § 23.572 by revising the section heading, by inserting the words "For normal, utility, and acrobatic category airplanes," before the first word in paragraph (a); by changing the word "The" to "the" in paragraph (a); and by adding a new paragraph (b) to read as follows:

§ 23.572 Flight structure.

* * * * *

(b) For commuter category airplanes, unless it is shown that the structure, operating stress levels, materials, and expected use are comparable from a fatigue standpoint to similar design which has had a substantial satisfactory

service experience, the strength, detail design, and the fabrication of those parts of the wing, wing carrythrough, vertical fin, horizontal stabilizer, and attaching structure whose failure would be catastrophic must be evaluated under either—

(1) A fatigue strength investigation, in which the structure is shown by analysis, tests, or both, to be able to withstand the repeated loads of variable magnitude expected in service. Analysis alone is acceptable only when it is conservative and applied to simple structures; or

(2) A fail-safe strength investigation in which it is shown by analysis, tests, or both, that catastrophic failure of the structure is not probable after fatigue failure, or obvious partial failure, of a principal structural element, and that the remaining structure is able to withstand a static ultimate load factor of 75 percent of the critical limit load at V_C. These loads must be multiplied by a factor of 1.15 unless the dynamic effects of failure under static load are otherwise considered.

Source: SFAR 41, § 5(d).

25. By amending § 23.677 by adding a new paragraph (d) to read as follows:

§ 23.677 Trim systems.

* * * * *

(d) In addition, for commuter category airplanes, it must be shown that the airplane is safely controllable and that a pilot can perform all the maneuvers and operations necessary to effect a safe landing following any probable electric trim tab runaway which might be reasonably expected in service allowing for appropriate time delay after pilot recognition of the runaway. This demonstration must be conducted at the critical airplane weights and center of gravity positions.

Source: Part 135, App. A., § 11.

26. By adding a new § 23.721 to read as follows:

§ 23.721 General.

For commuter category airplanes that have a passenger seating configuration, excluding pilot seats, of 10 or more, the following general requirements for the landing gear apply:

(a) The main landing gear system must be designed so that if it fails due to overloads during takeoff and landing (assuming the overloads to act in the upward and aft directions), the failure mode is not likely to cause the spillage of enough fuel from any part of the fuel system to constitute a fire hazard.

(b) Each airplane must be designed so that, with the airplane under control, it can be landed on a paved runway with any one or more landing gear legs not extended without sustaining a structural component failure that is likely to cause the spillage of enough fuel to constitute a fire hazard.

(c) Compliance with the provisions of this section may be shown by analysis or tests, or both.

Source: SFAR 41, § 8, which incorporates § 25.721 (a)(2), (b), and (c) by reference.

27. By amending § 23.783 by adding a new paragraph (c) to read as follows:

§ 23.783 Doors.

* * * * *

(c) In addition, for commuter category airplanes, the following requirements apply:

(1) There must be a means to lock and safeguard each external door against opening in flight (either inadvertently by persons, cargo, or as a result of mechanical failure or failure of a single structural element). Each external door must be openable from both the inside and the outside, even though persons may be crowded against the door on the inside of the airplane. Inward-opening doors may be used if there are means to prevent occupants from crowding against the door to an extent that would interfere with the opening of the door. The means of opening must be simple and obvious and must be arranged and marked inside and outside so that it can be readily located and operated, even in darkness. Auxiliary locking devices may be used;

(2) Each external door must be reasonably free from jamming as a result of fuselage deformation in a minor crash;

(3) There must be a provision for direct visual inspection of the locking mechanism by crewmembers to determine whether external doors, for which the initial opening movement is outward, including passenger, crew, service, and cargo doors, are fully locked. In addition, there must be a visual means to signal to appropriate crewmembers when normally used external doors are closed and fully locked; and

(4) Cargo and service doors not suitable for use as exists in an emergency need only meet paragraph (c)(3) of this section and be safeguarded against opening in flight by persons, cargo, or as result of mechanical failure of a single structural element.

Source: SFAR 41, § 5(e), Doors and Exits, paragraphs (b), (c), (e), and (f).

28. By amending § 23.787 by adding a new paragraph (g) to read as follows:

§ 23.787 Cargo compartments.

* * * * *

(g) In addition, for commuter category airplanes, the following applies:

(1) Means must be provided to protect occupants from injury by the contents of any cargo or baggage compartment located aft of occupants when the ultimate forward inertia force is 9g.

(2) Baggage compartments must be designed to meet the requirements for cargo compartments in paragraphs (a) and (b) of this section.

Source: Part 135, App. A., § 31.

29. By amending § 23.807 by adding a new paragraph (d) to read as follows:

§ 23.807 Emergency exits.

* * * * *

(d) *Doors and exits.* In addition, for commuter category airplanes the following requirements apply:

(1) The passenger entrance door must qualify as a floor level emergency exit. If an integral stair is installed at such a passenger entry door, the stair must be designed so that when subjected to the inertia forces specified in § 23.561, and following the collapse of one or more legs of the landing gear, it will not interfere to an extent that will reduce the effectiveness of emergency egress through the passenger entry door. Each additional required emergency exit, except floor level exits, must be located over the wing or must be provided with acceptable means to assist the occupants in descending to the ground. In addition to the passenger entrance door—

(i) For a total passenger seating capacity of 15 or less, an emergency exit in paragraph (b) of this section, is required on each side of the cabin; and

(ii) For a total passenger seating capacity of 16 through 19, three emergency exits, as defined in paragraph (b), are required with one on the same side as the door and two on the side opposite the door.

(2) There must be a means to lock each emergency exit and to safeguard against its opening in flight, either inadvertently by persons, or as a result of mechanical failure; in addition, there must be a means for direct visual inspection of the locking mechanism to determine that each emergency exit, for which the initial opening movement is outward, is fully locked.

(3) Each emergency exit must be marked with the word "Exit" by a sign which has white letters 1 inch high on a red background 2 inches high, be self-illuminated, or independently, internally-electrically illuminated, and have a minimum luminescence (brightness) of at least 160 microlamberts. The colors may be

reversed if the passenger compartment illumination is essentially the same.

(4) Access to window-type emergency exits may not be obstructed by seats or seat backs.

Source: Part 135, App. A., §§ 32 (a) and (b); SFAR 41, § 5(e), Doors and Exits, paragraphs (g), (i), and (j).

30. By adding a new § 23.809 to read as follows:

§ 23.809 Emergency evacuation.

For commuter category airplanes, an evacuation demonstration must be conducted utilizing the maximum number of occupants for which certification is desired. It must be conducted under simulated night conditions utilizing only the emergency exits on the most critical side of the aircraft. The participants must be representative of average airline passengers with no prior practice or rehearsal for the demonstration. Evacuation must be completed within 90 seconds.

Source: SFAR 41, § 5(e), Doors and Exits, paragraph (h).

31. By adding a new § 23.815 to read as follows:

§ 23.815 Width of aisle.

For commuter category airplanes, the width of the main passenger aisle at any point between seats must equal or exceed the values in the following table:

*

Number of passenger seats	Minimum main passenger aisle width	
	Less than 25 inches from floor	25 inches and more from floor
10 through 19	9 inches	15 inches.

Source: SFAR 41, § 5(e), Doors and Exits, paragraph (k).

32. By amending § 23.831 by redesignating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 23.831 Ventilation.

* * * * *

(b) In addition, for pressurized commuter category airplanes, the ventilating air in the flight crew and passenger compartments must be free of harmful or hazardous concentrations of gases and vapors in normal operations and in the event of reasonably probable failures or malfunctioning of the ventilating, heating, pressurization, or other systems and equipment. If accumulation of hazardous quantities of smoke in the cockpit area is reasonably probably, smoke evacuation must be readily accomplished starting with full pressurization and without depressurizing beyond safe limits.

Source: Part 135, App. A., § 60, and SFAR No. 41, § 4(c)(3), which incorporates § 25.831(d) by reference.

33. By adding a new § 23.851 to read as follows:

§ 23.851 Fire extinguishers.

For the commuter category airplanes, the following applies:

(a) There must be at least one hand fire extinguisher conveniently located in the pilot compartment; and

(b) There must be at least one hand fire extinguisher conveniently located in the passenger compartment.

Source: SFAR 41, § 7 (d) and (e).

34. By amending § 23.853 by redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively; and by adding a new paragraph (d) to read as follows:

§ 23.853 Compartment interiors.

* * * * *

(d) In addition, for commuter category airplanes the following requirements apply:

(1) Each disposal receptacle for towel, paper, or waste must be fully enclosed and constructed of at least fire resistant materials, and must contain fires likely to occur in it under normal use. The ability of the disposal receptacle to contain those fires under all probably conditions of wear, misalignment, and ventilation expected in service must be demonstrated by test. A placard containing the legible words "No Cigarette Disposal" must be located on or near each disposal receptacle door.

(2) Lavatories must have "No Smoking" or "No Smoking in Lavatory" placards located conspicuously on each side of the entry door, and self-contained, removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if it can be seen from the cabin side of each lavatory door served. The placards must have red letters at least ½ inch high on a white background at least 1 inch high. (A "No Smoking" symbol may be included on the placard).

(3) Materials (including finishes or decorative surfaces applied to the materials) used in each compartment occupied by the crew or passengers must meet the following test criteria as applicable:

(i) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of Appendix F of this Part, or other equivalent methods. The average burn length may not exceed six inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of three seconds after falling.

(ii) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and non-decorative coated-fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, cargo compartment liners, insulation blankets, cargo covers, and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in paragraph (iv) of this section, must be self-extinguishing when tested vertically in accordance with the applicable portions of Appendix F of this Part, or other approved equivalent methods. The average burn length may not exceed 8 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

(iii) Motion picture film must be safety film meeting the Standard Specifications for Safety Photographic Film PH1.25 (available from the American National Standards Institute, 1430 Broadway, New York, N.Y. 10018) or an FAA approved equivalent. If the film travels through ducts, the ducts must meet the requirements of paragraph (ii) of this paragraph.

(iv) Acrylic windows and signs, parts constructed in whole or in part of elastomeric materials, edge-lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods.

(v) Except for electrical wire cable insulation, and for small parts (such as knobs, handles, rollers, fasteners, clips, grommets, rub strips, pulleys, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, materials in

items not specified in paragraphs (d)(3)(i), (ii), (iii), or (iv) of this section may not have a burn rate greater than 4.0 inches per minute when tested horizontally in accordance with the applicable portions of Appendix F of this part or other approved equivalent methods.

* * * * *

Source: SFAR 41, § 7 (b) and (c), and §§ 91.58 and 135.170 of the FAR.

35. By amending § 23.901 by adding a new paragraph (b)(3) to read as follows:

§ 23.901 Installation.

* * * * *

(b) * * *

(3) In addition, for turbopropeller-powered commuter category airplanes, the engine installation must not result in vibration characteristics exceeding those established during the type certification of the engine.

* * * * *

Source: Part 135, App. A., § 36.

36. By amending § 23.903 by redesignating paragraph (d) as paragraph (d)(1); by adding a new paragraph (d)(2); and by revising paragraph (e)(2) to read as follows:

§ 23.903 Engines.

* * * * *

(d) * * *

(2) In addition, for commuter category airplanes, the following applies:

(i) Each component of the stopping system on the engine side of the firewall that might be exposed to fire must be at least fire resistant.

(ii) If hydraulic propeller feathering systems are used for this purpose, the feathering lines must be at least fire resistant under the operating conditions that may be expected to exist during feathering.

(e) * * *

(2) Means must be provided for stopping combustion and rotation of any engine. All those components provided for compliance with this requirement, which are within any engine compartment, on the engine side of the firewall, must be fire resistant. In addition, for commuter category airplanes, each component of the restarting system on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant and, if hydraulic propeller feathering systems are used for this purpose, the feathering lines must be at least fire resistant under the operating conditions that may be expected to exist during feathering.

* * * * *

Source: Part 135, App. A., § 38(a)(2), and SFAR 41, § 4(c)(4) which incorporated § 25.903 (c) and (e) by reference.

37. By amending § 23.933 by adding a new paragraph (d) to read as follows:

§ 23.933 Reversing systems.

* * * * *

(d) For turbopropeller-powered, commuter category airplanes, the requirements of paragraphs (b) and (c) of this section apply, and compliance with this section must be shown by failure analysis, testing, or both, for propeller systems that allow the propeller blades to move from the flight low-pitch position to a position that is substantially less than that at the normal flight, low-pitch stop position. The analysis may include, or be supported by, the analysis made to show compliance for the type certification of the propeller and associated installation components. Credit will be given for pertinent analysis and testing completed by the engine and propeller manufacturers.

Source: Part 135, App. A, § 39.

38. By amending § 23.963 by adding a new paragraph (f) to read as follows:

§ 23.963 Fuel tanks: General.

* * * * *

(f) For commuter category airplanes, fuel tanks within the fuselage contour must be able to resist rupture and to retain fuel under the inertia forces prescribed for the emergency landing conditions in § 23.561. In addition, these tanks must be in a protected position so that exposure of the tanks to scraping action with the ground is unlikely.

Source: SFAR 41, § 9, which incorporates § 25.963(d) by reference.

39. By amending § 23.997 by adding a new paragraph (e) to read as follows:

§ 23.997 Fuel strainer or filter.

* * * * *

(e) In addition, for commuter category airplanes, unless there are means in the fuel system to prevent the accumulation of ice on the filter, there must be means to automatically maintain the fuel-flow if ice-clogging of the filter occurs.

Source: Part 135, App. A., § 44(b).

40. By amending § 23.1163 by adding a new paragraph (d) to read as follows:

§ 23.1163 Powerplant accessories.

* * * * *

(d) In addition, for commuter category airplanes, if the continued rotation of any accessory remotely driven by the engine is hazardous when malfunctioning occurs, there must be a means to prevent rotation without interfering with the continued operation of the engine.

Source: Part 135, App. A., § 54.

41. By amending § 23.1165 by adding a new paragraph (f) to read as follows:

§ 23.1165 Engine ignition systems.

* * * * *

(f) In addition, for commuter category airplanes, each turbopropeller ignition system must be considered an essential electrical load.

Source: Part 135, App. A., § 53.

42. By amending § 23.1193 by adding a new paragraph (g) to read as follows:

§ 23.1193 Cowling and nacelle.

* * * * *

(g) In addition, for commuter category airplanes, the airplane must be designed so that no fire originating in any engine compartment can enter, either through openings or by burn-through, any other region where it would create additional hazards.

Source: SFAR 41, § 5(g).

43. By adding a new § 23.1195 to read as follows:

§ 23.1195 Fire extinguishing systems.

For commuter category airplanes, fire extinguishing systems must be installed and compliance shown with the following:

(a) Except for combustor, turbine, and tail pipe sections of turbine engine installations that contain lines or components carrying flammable fluids or gases for which it is shown that a fire originating in these sections can be controlled, there must be a fire extinguisher system serving each engine compartment;

(b) The fire extinguishing system, the quantity of the extinguishing agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires. An individual "one shot" system may be used.

(c) The fire extinguishing system for a nacelle must be able to simultaneously protect each compartment of the nacelle for which protection is provided.

Source: SFAR 41, § 11(b).

44. By adding a new § 23.1197 to read as follows:

§ 23.1197 Fire extinguishing agents.

For commuter category airplanes, the following applies:

(a) Fire extinguishing agents must—

(1) Be capable of extinguishing flames emanating from any burning of fluids or other combustible materials in the area protected by the fire extinguishing system; and

(2) Have thermal stability over the temperature range likely to be experienced in the compartment in which they are stored.

(b) If any toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors (from leakage during normal operation of the airplane or as a result of discharging the fire extinguisher on the ground or in flight) from entering any personnel compartment, even though a defect may exist in the extinguishing system. This must be shown by test except for built-in carbon dioxide fuselage compartment fire extinguishing systems for which—

(1) Five pounds or less of carbon dioxide will be discharged, under established fire control procedures, into any fuselage compartment; or

(2) There is protective breathing equipment for each flight crewmember on flight deck duty.

Source: SFAR 41, § 12, which incorporates § 25.1197 by reference.

45. By adding a new § 23.1199 to read as follows:

§ 23.1199 Extinguishing agent containers.

For commuter category airplanes, the following applies:

(a) Each extinguishing agent container must have a pressure relief to prevent bursting of the container by excessive internal pressures.

(b) The discharge end of each discharge line from a pressure relief connection must be located so that discharge of the fire extinguishing agent would not damage the airplane. The line must also be located or protected to prevent clogging caused by ice or other foreign matter.

(c) There must be a means for each fire extinguishing agent container to indicate that the container has discharged or that the charging pressure is below the established minimum necessary for proper functioning.

(d) The temperature of each container must be maintained, under intended operating conditions, to prevent the pressure in the container from—

(1) Falling below that necessary to provide an adequate rate of discharge; or

(2) Rising high enough to cause premature discharge.

(e) If a pyrotechnic capsule is used to discharge the extinguishing agent, each container must be installed so that temperature conditions will not cause hazardous deterioration of the pyrotechnic capsule.

Source: SFAR 41, § 13, which incorporates § 25.1199 by reference.

46. By adding a new § 23.1201 to read as follows:

§ 23.1201 Fire extinguishing system materials.

For commuter category airplanes, the following applies:

(a) No material in any fire extinguishing system may react chemically with any extinguishing agent so as to create a hazard.

(b) Each system component in an engine compartment must be fireproof.

Source: SFAR 41, § 14, which incorporates § 25.1201 by reference.

47. By amending § 23.1203 by removing the word "and" in the introductory sentence and replacing with a ","; and by inserting the words ", and all commuter category airplanes" between the words "turbo-superchargers" and "the" at the end of the introductory paragraph.

Source: SFAR 41, § 11(a).

48. By revising § 23.1305 (f), (h), and (k), to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(f) A cylinder head temperature indicator for—

(1) Each air-cooled engine with cowl flaps, and for each airplane for which compliance with § 23.1041 is shown at a speed higher than V_Y; and

(2) Each reciprocating engine-powered commuter category airplane.

(h) A manifold pressure indicator for—

(1) Each altitude engine; and

* * * * *

(2) Each reciprocating engine-powered commuter category airplane.

* * * * *

(k) A fuel flowmeter for—

(1) Each turbine engine or fuel tank, if pilot action is required to maintain fuel flow within limits; and

(2) Each turbine-powered commuter category airplane.

* * * * *

Source: Part 135, App. A., § 58.

49. By amending § 23.1309 by adding a new paragraph (d) to read as follows:

§ 23.1309 Equipment, systems and installations.

* * * * *

(d) In addition, for commuter category airplanes, systems and installations must be designed to safeguard against hazards to the aircraft in the event of their malfunction or failure. Where an installation, the functioning of which is necessary in showing compliance with the applicable requirements, requires a power supply, the installation must be considered an essential load on the power supply. The power sources and the distribution system must be capable of supplying the following power loads in probable operation combinations and for probable durations:

(1) All essential loads after failure of any prime mover, power converter, or energy storage device;

(2) All essential loads after failure of any one engine on two-engine airplanes; and

(3) In determining the probable operating combinations and durations of essential loads for the power failure conditions described in paragraphs (d) (1) and (2) of this section, it may be assumed that the power loads are reduced in accordance with a monitoring procedure which is consistent with safety in the types of operations for which approval is requested.

Source: Part 135, App. A., § 59.

50. By amending § 23.1323 by adding new paragraphs (c) and (d) to read as follows:

§ 23.1323 Airspeed indicating system.

* * * * *

(c) In addition, for commuter category airplanes, the airspeed indicating system must be calibrated to determine the system error in flight and during the accelerate-takeoff ground run. The ground run calibration must be obtained between 0.8 of the minimum value of V_1 and 1.2 times the maximum value of V_1, considering the approved ranges of altitude and weight. The ground run calibration must be determined assuming an engine failure at the minimum value of V_1.

(d) For commuter category airplanes, the information showing the relationship between IAS and CAS determined in accordance with paragraph (c) of this section, must be shown in the Airplane Flight Manual.

Source: Part 135, App. A., § 13 (b) and (d).

51. By amending § 23.1325 by adding a new paragraph (f) to read as follows:

§ 23.1325 Static pressure system.

* * * * *

(f) For commuter category airplanes, the altimeter system calibration as required by paragraph (e) of this section, must be shown in the Airplane Flight Manual.

Source: Part 135, App. A., § 14.

52. By amending § 23.1351 by revising paragraph (a)(2); by revising paragaraphs (2), (3), and (4) and adding a new (5) to paragraph (b); and by

revising paragraph (d); to read as follows:

§ 23.1351 General.

(a) * * *

(2) Compliance with paragraph (a)(1) of this section must be shown as follows—

(i) For normal, utility, and acrobatic category airplanes, by an electrical load analysis or by electrical measurements that account for the electrical loads applied to the electrical system in probable combinations and for probable durations; and

(ii) For commuter category airplanes, by an electrical load analysis that accounts for the electrical loads applied to the electrical system in probable combinations and for probable durations.

(b) * * *

(2) Electric power sources must function properly when connected in combination or independently, except for normal, utility, and acrobatic category airplanes, alternators may depend on a battery for initial excitation or for stabilization.

(3) No failure or malfunction of any electric power source may impair the ability of any remaining source to supply load circuits essential for safe operation, except for normal, utility, and acrobatic category airplanes, the operation of an alternator that depends on a battery for initial excitation or for stabilization may be stopped by failure of that battery; and

(4) Each electric power source control must allow the independent operation of each source, except for normal, utility and acrobatic category airplanes, controls associated with alternators that depend on a battery for initial excitation or for stabilization need not break the connection between the alternator and its battery.

(5) In addition, for commuter category airplanes, the following apply:

(i) Each system must be designed so that essential load circuits can be supplied in the event of reasonably probable faults or open circuits, including faults in heavy current carrying cables;

(ii) There must be a means, accessible in flight to the flight crewmembers, for the individual and collective disconnection of the electrical power soures from the system;

(iii) The system must be designed so that voltage, and frequency if applicable, at the terminals of all essential load equipment can be maintained within the limits for which the equipment is designed, during any probable operating conditions;

(iv) If two independent sources of electrical power for particular equipment or systems are required, their electrical energy supply must be ensured by means such as duplicate electrical equipment, throwover switching, or multichannel or loop circuits separately routed; and

(v) For the purpose of complying with this paragraph, the distribution system includes the distribution busses, their associated feeders, and each control and protective device.

* * * * * *

(d) *Instruments.* There must be a means to indicate to appropriate flight crewmembers the electric power system quantities essential for safe operation.

(1) For normal, utility, and acrobatic category airplanes with direct current systems, an ammeter that can be switched into each generator feeder may be used and if there is only one generator, the ammeter may be in the battery feeder.

(2) For commuter category airplanes, the essential electric power system quantities include the voltage and current supplied by each generator.

* * * * *

Source: Part 135, App. A. §§ 61 and 63.

53. Amending § 23.1523 by revising paragraph (a) to read as follows:

§23.1523 Minimum flight crew.

* * * * *

(a) The workload on individual crewmembers; and in addition for commuter category airplanes, each crewmember workload determination must consider the following:

(1) Flight path control,

(2) Collision avoidance,

(3) Navigation,

(4) Communications,

(5) Operation and monitoring of all essential aircraft systems,

(6) Command decisions, and

(7) The accessibility and ease of operation of necessary controls by the appropriate crewmember during all normal and emergency operations when at the crewmember flight station.

* * * * *

Source: Part 135, App. A., § 16.

54. By amending § 23.1581 by adding a new paragraph (e) to read as follows:

§ 23.1581 General.

* * * * *

(e) Provision must be made for stowing the Airplane Flight Manual in a suitable fixed container which is readily accessible to the pilot.

Source: Part 135, App. A., §22

55. By amending § 23.1583 by adding new paragraphs (a)(3), (c)(3), (c)(4), and (e)(4) to read as follows:

§ 23.1583 Operating limitations.

(a) * * *

(3) In addition, for commuter category airplanes—

(i) The maximum operating limit speed, V_{MO}/M_{MO} and a statement that this speed may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training;

(ii) If an airspeed limitation is based upon compressibility effects, a statement to this effect and information as to any symptoms, the probable behavior of the airplane, and the recommended recovery procedures; and

(*iii*) The airspeed limits must be shown in terms of V_{NO}/M_{MO} instead of V_{NO} and V_{NE}.

* * * * *

(c) * * *

(3) In addition, for commuter category airplanes, the maximum takeoff weight for each altitude, ambient temperature, and required takeoff runway length within the range selected by the applicant may not exceed the weight at which—

(i) The all-engine-operating distance determined under § 23.59, or the accelerate-stop distance determined under § 23.55, whichever is greater, is equal to the available runway length;

(ii) The airplane complies with the one-engine-inoperative takeoff distance requirements of § 23.59; and

(iii) The airplane complies with the one-engine-inoperative takeoff and en route climb requirements of §§ 23.57 and 23.67.

(4) In addition, for commuter category airplanes, the maximum landing weight for each altitude, ambient temperature, and required landing runway length, within the range selected by the applicant.

(i) The weights may not exceed the weight at which the landing field length determined under § 23.75 is made; or

(ii) The weights may not exceed the weight at which compliance with § 23.77 is made.

* * * * *

(e) * * *

(4) *Commuter category airplanes.* For commuter category airplanes, acrobatic maneuvers, including spins, are unauthorized.

* * * * *

Explanation: All proposed changes are from the referenced sources except proposed paragraph (e)(4). The FAA considers the commuter category to be an airplane whose

intended use parallels transport category airplanes; therefore, a placard prohibiting spins is not considered necessary.

Source: Part 135, App. A. §§ 18 and 19, and SFAR 41, § 4(c)(1)(i).

56. By amending § 23.1585 by adding a new paragraph (h) to read as follows:

§ 23.1585 Operating procedures.

* * * * *

(h) In addition, for commuter category airplanes, the procedures for restarting turbine engines in flight, including the effects of altitude, must be set forth in the Airplane Flight Manual.

Source: Part 135, App. A., § 23.

57. By amending § 23.1587 by adding a new paragraph (d) to read as follows:

§ 23.1587 Performance information.

* * * * *

(d) *Commuter category airplanes.* In addition, for commuter category airplanes, the Airplane Flight Manual must contain at least the following performance information:

(1) Sufficient information so that the takeoff weight limits specified in § 23.1585 can be determined for all temperatures and altitudes within the operational limitations selected by the applicant;

(2) The conditions under which the performance information was obtained, including the airspeed at the 50-foot height used to determine the landing distance as required by § 23.75;

(3) The performance information (determined by extrapolation and computed for the range of weights between the maximum landing and maximum takeoff weights), for—

(i) Climb in the landing configuration as determined by § 23.77; and

(ii) Landing distance as determined by § 23.75;

(4) Procedures information established in accordance with the limitations and other information for safe operation of the airplane in the form of recommended procedures;

(5) An explanation of significant or unusual flight and ground handling characteristics of the airplane; and

(6) Airspeed, as calibrated airspeed, corresponding to those established during the showing of compliance to § 23.53, Takeoff speeds.

Source: Part 135, App. A., § 20.

PART 23—[AMENDED]

58. By amending Part 23 Appendix F by redesignating paragraph (e) as paragraph (f) and by adding a new paragraph (e) to read as follows:

Appendix F—Test Procedure

* * * * *

(e) *Horizontal test.* A minimum of three specimens must be tested and the results averaged. Each specimen must be supported horizontally. The exposed surface when installed in the aircraft must be face down for the test. The specimen must be exposed to a Bunsen burner or Tirril burner with a nominal three-eights inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 550° F. The specimen must be positioned so that the edge being tested is three-fourths of an inch above the top of, and on the center line of, the burner. The flame must be applied for 15 seconds and then removed. A minimum of 10 inches of the specimen must be used for timing purposes, approximately 1½ inches must burn before the burning front reaches the timing zone, and the average burn rate must be recorded.

* * * * *

Source: Necessary for the showing of compliance with proposed § 23.853. Part 25, Appendix F, Paragraph (e), provides appropriate criteria and is the source of this proposal.

59. By amending Part 23 Appendix G, Section G 23.3 by adding a new paragraph (h) to read as follows:

Appendix G—Instructions for Continued Airworthiness

G23.3 * * *

(h) In addition, for commuter category airplanes, the following information must be furnished:

(1) Electrical loads applicable to the various systems;

(2) Methods of balancing control surfaces;

(3) Identification of primary and secondary structures; and

(4) Special repair methods applicable to the airplane.

Source: Part 135, App. A, § 35 (c), (f), (g), and (i).

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

§ 21.19 [Amended]

60. By amending § 21.19 by inserting the word "commuter," before the word "or" in paragraph (b).

§ 21.21 [Amended]

61. By amending § 21.21 by inserting the word "commuter," after the word "acrobatic," in the section heading and introductory paragraph.

§ 21.27 [Amended]

62. By amending § 21.27 by inserting the word "commuter," after the word "acrobatic" in paragraph (a); by inserting "Commuter category airplanes" in the table under the heading "Type of aircraft" and below "Small turbine engine-powered airplanes"; by inserting "After (effective date of the amendment adopting the commuter category)" in the table under the heading "Date accepted for operational use by the Armed Forces of the United States" and below the date "Oct. 1, 1959"; and by inserting "FAR Part 23 as of the date of the amendment adopting the commuter category" in the table under the heading "Regulations that Apply."

§ 21.37 [Amended]

63. By amending § 21.37 by inserting the word "commuter," after the word "acrobatic,".

§ 21.39 [Amended]

64. By amending § 21.39(a) by inserting the word "commuter," after the word "acrobatic,".

§ 21.73 [Amended]

65. By amending § 21.73(c) by inserting the word "commuter," after the word "acrobatic,".

§ 21.93 [Amended]

66. By amending § 21.93(b)(3) by inserting the words "commuter category and" after the word "driven" in the first sentence of the paragraph.

§ 21.175 [Amended]

67. By amending § 21.175(a) by inserting the word "commuter," after the word "acrobatic,".

§ 21.183 [Amended]

68. By amending § 21.183 by inserting the word "commuter," after the word "acrobatic," in the section heading; by inserting the word "commuter," after the word "acrobatic," in the first sentence of paragraph (e)(2).

§ 21.195 [Amended]

69. By amending § 21.195(b) by inserting the word "commuter," after the word "acrobatic,".

§ 21.213 [Amended]

70. By amending § 21.213(c) by inserting the word "commuter," after the word "acrobatic" in the last sentence of the paragraph.

71. By amending § 21.231 by redesignating paragraphs (a)(2) through (a)(5) as paragraphs (a)(3) through (a)(6) respectively, and by adding a new paragraph (a)(2) to read as follows:

§ 21.231 Applicability.

* * * * *

(a) * * *

(2) Commuter category airplanes;

* * * * *

§ 21.327 [Amended]

72. By amending § 21.327 by inserting the words "and commuter category airplanes,' after the words "transport

aircraft" in the second sentence of paragraph (f)(2).

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

§ 36.1 [Amended]

73. By amending § 36.1 by inserting the phrase "and for propeller-driven, commuter category airplanes" after the words "small airplanes," in paragraph (a)(2); and by inserting the words "for propeller-driven, commuter category airplanes and" after the words "§ 21.185" in paragraph (e).

§ 36.9 [Amended]

74. By amending § 36.9 by inserting the words "and propeller-driven, commuter category airplanes" after the words "small airplanes" in the section heading; and by inserting the phrase "and for propeller-driven, commuter category airplanes" after the word "categories" in the introductory paragraph.

75. By amending the heading of Part 36, Subpart F by inserting the words "and Propeller-Driven, Commuter Category Airplanes" after the words "Small Airplanes."

§ 36.501 [Amended]

76. By amending § 36.501(a)(2) by inserting the phrase "and for propeller-driven, commuter category airplanes" after the words "small airplanes."

§ 36.1581 [Amended]

77. By amending § 36.1581(d) by inserting the phrase "and for propeller-driven, commuter category airplanes" after the words "small airplanes."

78. By amending Appendix F of Part 36 by inserting the phrase "and for Propeller-Driven, Commuter Category Airplanes" after the words "Small Airplanes" in the Appendix heading; by removing the phrase "up to and including 12,500 pounds" in section F36.301, paragraph (b); and by removing the phrase "at weights from and including 3,300 pounds to and including 12,500 pounds" from section F36.301, paragraph (c).

PART 91—GENERAL OPERATING AND FLIGHT RULES

79. By revising § 91.213(a)(1) to read as follows:

§ 91.213 Second in command requirements.

(a) * * *

(1) A large airplane except that a person may operate an airplane type certificated under SFAR No. 41 series regulations or a commuter category airplane without a pilot who is designated as a second-in-command if that airplane is type certificated for operations with one pilot.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

80. By adding a new § 135.4 to read as follows:

§ 135.4 Commuter category airplanes.

For purposes of this part, a commuter category airplane is considered a small airplane.

81. By amending § 135.169 by deleting "or" at the end of paragraph (b)(5); by deleting the "." and inserting "; or" at the end of paragraph (b)(6); by adding new paragraphs (b)(7) and paragraph (c)(2)(iii) to read as follows:

§ 135.169 Additional airworthiness requirements.

* * * * *

(b) * * *

(7) In the commuter category.

(c) * * *

(2) * * *

(iii) The commuter category requirements of Part 23 of this chapter.

82. By amending § 135.399 by removing "or (6)" and inserting "(6), or (7)" in place thereof in the first sentence of paragraph (a); by adding after "§ 135.169(b)(6)" the following "or (b)(7)" in the first sentence of paragraph (b); by redesignating paragraph (b) as paragraph (c); and by adding new paragraphs (b), (d), and (e) to read as follows:

§ 135.399 Small nontransport category airplane performance operating limitations.

* * * * *

(b) No person may takeoff an airplane type certificated in the commuter category at a weight greater than that listed in the Airplane flight Manual that allows a net takeoff flight path that clears all obstacles either by a height of at least 35 feet vertically, or at least 200 feet horizontally within the airport boundaries and by at least 300 feet horizontally after passing the boundaries.

* * * * *

(d) In determining maximum weights, minimum distances and flight paths under paragraphs (a) through (c) of this section, correction must be made for the runway to be used, the elevation of the airport, the effective runway gradient, and the ambient temperature and wind component at the time of takeoff.

(e) For the purposes of this section, it is assumed that the airplane is not banked before reaching a height of 50 feet as shown by the net takeoff flight path data in the Airplane Flight Manual and thereafter the maximum bank is not more than 15 degrees.

(Secs. 307, 313(a), 601, 603, 604, and 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424, and 1431); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, Jan. 12, 1983))

Note.—For the reasons discussed earlier, the FAA has determined that this document involves proposed regulations which are not considered to be major under the procedures and criteria prescribed by Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). A copy of the initial regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained from the person identified as the contact for further information. As few, if any, small entities are expected to use the type of airplane covered by this proposal, I certify that this regulation will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Issued in Kansas City, Missouri, on September 23, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-30688 Filed 11-14-83; 8:45 am]

BILLING CODE 4910-13-M

Reader Aids

Federal Register

Vol. 48, No. 221

Tuesday, November 15, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Notices:
November 4, 1983..... 51277

Presidential Determinations:
No. 83-10 of September 30, 1983..... 51607

Executive Orders:
April 15, 1910 (Revoked in part by PLO 6487)..... 50894
July 2, 1910 (See PLO 6487)
December 28, 1910 (Revoked in part by PLO 6487)..... 50894
January 24, 1914 (Revoked in part by PLO 6487)..... 50894
7594 (Revoked in part by PLO 6489)..... 50895
12170 (Continued by Notice of November 4, 1983)..... 51277
12448..... 51281

Proclamations:
2417 (See PLO 6489)..... 50895
5123..... 50699
5124..... 51275
5125..... 51279
5126..... 51425
5127..... 51605

7 CFR

2..... 50875, 51141
29..... 50501
371..... 50295
905..... 51765
906..... 50501
907..... 51609
910..... 50701, 50877, 51634
1290..... 51427
1421..... 51765

Proposed Rules:
42..... 51635
225..... 50743
400..... 51635
436..... 51638
1036..... 50549
1488..... 51490
1910..... 51312
1924..... 51312
1930..... 51312
1941..... 51312
1945..... 51312

8 CFR

103..... 51142, 51430
109..... 51142
214..... 51283
238..... 51431

9 CFR

81..... 51422
92..... 50701
327..... 50296

10 CFR

50..... 50878
71..... 51903
95..... 51903
761..... 50296

Proposed Rules:
2..... 50550
50..... 50746
51..... 50746
211..... 50824
440..... 51068

11 CFR

114..... 50502

12 CFR

26..... 50296
30..... 51283
212..... 50296
220..... 51768
348..... 50296
563f..... 50296
711..... 50296

Proposed Rules:
Ch. III..... 50746
304..... 51155
330..... 50339
336..... 51317
337..... 50339
349..... 51155
563..... 51270
564..... 50339
571..... 51270

13 CFR

Proposed Rules:
111..... 51642

14 CFR

39..... 50508, 50879-50886, 51287, 51431, 51432
71..... 50510, 50887, 51433-51436, 51903-51905
75..... 50510
91..... 50510
97..... 50512, 51609
159..... 51416
211..... 51288
385..... 51144

Proposed Rules:
Ch. I..... 50553
21..... 52010
23..... 52010
36..... 52010

39 ..... 50341, 50899
91 52010
135 52010
380 50900
399 50900

16 CFR

13 ..... 50702-50704, 51768, 51769
1017 50514
1406 50705

17 CFR

33 51288
145 50887
211 51769
275 50526

Proposed Rules:

3 50554
10 50554
230 ..... 51155, 51328
240 51930

18 CFR

157 51436
271 51446

19 CFR

111 51288

Proposed Rules:

10 50342
19 50342
24 50342
113 50342
125 50342
141 50342
142 50342
143 50342
144 50342
146 50342
151 51784

20 CFR

200 51447
202 51447
250 51447
259 51447
260 51447
262 51447
350 51447
362 51447
363 51447
396 50308
602 50662
603 50662
604 50662
621 50527
651 50662
652 50662
653 ..... 50527, 50662
654 50527
655 50527
656 50527

21 CFR

5 50527
12 51770
74 ..... 50311, 51145
81 ..... 50311, 51145
82 ..... 50311, 51145
133 51906
136 51448
172 51906
176 51770
178 51611
182 ..... 51146-51151, 51612-51615, 51906-51910
184 ..... 51146-51151, 51612-51617, 51906-51911
193 ..... 50528, 51453
430 51290
436 ..... 51290, 51292, 51912
440 ..... 51292, 51294
442 51292
446 ..... 51290, 51292
448 51292
449 51292
450 51912
452 51292
546 51292
520 50528
522 50887
558 50707
561 ..... 50528, 51453

Proposed Rules:

161 51932
207 50358
210 50358
225 50358
226 50358
501 50358
510 50358
514 50358
558 50358
1304 51329

22 CFR

514 50707

23 CFR

Proposed Rules:

Ch. 1 51330

24 CFR

26 51295
200 51295
203 ..... 51295, 51455
205 51295
207 ..... 51295, 51455
213 ..... 51295, 51455
215 51619
220 51455
221 ..... 51295, 51455, 51619
232 ..... 51295, 51455
234 51455
236 ..... 51455, 51619
241 ..... 51295, 51455
242 ..... 51295, 51455
244 ..... 51295, 51455
570 51295
883 51296
885 50888
890 51619

Proposed Rules:

571 51935
865 51785

25 CFR

700 51771

26 CFR

1 50711

Proposed Rules:

1 ..... 50751, 51330, 51331, 51645, 51788, 51936, 51940
5c 51645
6a 50751
31 ..... 50567, 51788
52 50775
301 51788

27 CFR

Proposed Rules:

4 51333

28 CFR

0 ..... 50712, 50713
3 50713
8 50713
9 50713
9a 50713
547 50478
548 50478

29 CFR

1 50312
4 50529
5 50312
1601 51772
1910 51086

Proposed Rules:

1908 50902

30 CFR

913 51619

Proposed Rules:

901 51941
915 51457
920 51158
926 51334
934 ..... 51458, 51459
942 ..... 51335, 51461, 51646
950 51465

32 CFR

150 51467

Proposed Rules:

1-39 50872
95 51490
505 50775

33 CFR

90 51621
165 ..... 50714, 51622

Proposed Rules:

110 ..... 50359, 50360

35 CFR

133 51472

36 CFR

223 50889

38 CFR

3 50313
17 51913
21 50529
36 51152

Proposed Rules:

21 ..... 50568, 50569

39 CFR

601 50889
3001 ..... 50715, 51337

40 CFR

35 51400
51 50686
52 ..... 50530, 50568, 51153, 51472, 51480, 51622, 51942, 51944
80 50482
81 50316
120 51400
123 51298
131 51400
180 ..... 50317, 50532, 50533, 51485-51487
228 50317
271 50889
420 51773
434 50321
439 50322
468 50717

Proposed Rules:

52 ..... 51159, 51338, 51339, 51794
60 ..... 50670, 51900
61 51064
81 ..... 50361, 51160
85 50902
180 50363
271 50776
403 51647
420 51647
421 50906
761 50486

41 CFR

Ch. 7 51488
5-2 51299
5-3 51299
5-16 51299
101-36 50890
101-47 50892

Proposed Rules:

1-15 50873
3-1 51648

42 CFR

Proposed Rules:

55a 50363
71 50777

43 CFR

Public Land Orders:

422 51153
2249 (Revised in part by PLO 6489) 50895
6439 50719
6440 50893
6477 50322
6481 51914
6485 50893
6486 50894
6487 50894
6488 50895
6489 50895
6490 50896

44 CFR

64 51914
67 50719
205 51056

Proposed Rules:

67 ..... 50366, 50777, 50778, 51945
151 50778

45 CFR

302 51916
801 50721

Proposed Rules:

1076 51760

46 CFR

2 50996

31 50996
32 50996
35 50996
37 50996
42 50996
46 50996
56 50996
71 50996
72 50996
73 50996
74 50996
75 50996
78 50996
79 50996
91 50996
93 50996
97 50996
99 50996
106 50996
107 50996
108 50996
109 50996
111 50996
151 50996
153 50996
154 50996
163 50996
167 50996
168 50996
170 50996
171 50996
172 50996
173 50996
174 50996
177 50996
178 50996
179 50996
185 50996
189 50996
190 50996
191 50996
196 50996

Proposed Rules:

10 51650
35 51650
50 50781
52 50781
53 50781
54 50781
63 50781
157 51650
162 50781
175 51650
185 51650
186 51650
187 51650

47 CFR

1 51917
2 ..... 50322, 50722, 50897, 51302
17 51917
18 51302
21 ..... 50322, 50722, 50897
22 50722
23 50722
31 ..... 50534, 51154
61 51773
64 51773
73 ..... 51304, 51623-51627, 51775
74 ..... 50322, 50722, 50897
78 50722
81 ..... 50548, 50722
83 ..... 50548, 50739
87 ..... 50548, 50722
90 ..... 50722, 51917
94 ..... 50322, 50722, 50897
97 51917

Proposed Rules:

Ch. I 51340
1 51493
22 51493
64 51650
73 ..... 50571-50585, 50907 51161, 51652-51663

48 CFR

Proposed Rules:

5 50907

49 CFR

171 ..... 50440, 50444
172 ..... 50440, 50444
173 ..... 50440, 50444
174 ..... 50440, 50444
175 50444
176 50440
177 50440
178 50440
179 50440
509 51310
567 51308
1003 51777
1039 ..... 50897, 51311
1043 51777
1084 51777
1118 51627
1162 51627
1163 51627

Proposed Rules:

Ch. X 51664
192 50908
571 51795
1162 51796

50 CFR

663 51782

Proposed Rules:

17 ..... 50909, 51736
611 ..... 50379, 50586, 50782
665 51797
672 50379
675 50586

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing November 10, 1983

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 180 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued. Or, the previous year's full set may be purchased at a reduced price and mailed as a single shipment.

Subscription Prices:

Federal Register:

One year: $175 domestic; $218.75 foreign
Six months: $87.50 domestic; $109.40 foreign

Code of Federal Regulations:

Current year (as issued): $250 domestic; $312.50 foreign
Previous year's full set (single shipment): $155 domestic; $193.75 foreign

Order Form

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me _____ **Federal Register:** One year as issued: $175 domestic; $218.75 foreign
Six months: $87.50 domestic; $109.40 foreign

_____ **Code of Federal Regulations:** Current year: $250 domestic; $312.50 foreign
Previous year's full set (single shipment): $155 domestic; $193.75 foreign

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

For Office Use Only

Quantity		Charges
_____	Publications	_____
_____	Subscription	_____
	Special Shipping Charges	_____
	International Handling	_____
	Special Charges	_____
	OPNR	_____
_____	UPNS	
_____	Balance Due	
_____	Discount	
_____	Refund	

867