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federal register

Tuesday
April 9, 1985

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Selected Subjects

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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

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing regulations to implement section 1203 of the Panama Canal Act of 1979, which provides reemployment rights for Federal employees who are detailed or transferred to the Panama Canal Commission in the Republic of Panama.

EFFECTIVE DATE: May 9, 1985.

FOR FURTHER INFORMATION CONTACT: Leota Shelkey, (202) 632-6817.

SUPPLEMENTARY INFORMATION: On January 8, 1982, the Office of Personnel Management published (at 47 FR 956) proposed regulations to extend reemployment rights based on service with the Panama Canal Commission, and invited comments from the public. Comments were received from three agencies and two labor organizations. The following summarizes the major comments and actions taken:

One commenter suggested the regulation states more specifically that the written agreement for a detail or transfer must cover reemployment rights. This has been clarified and a requirement added for the employee to be given a copy of the agreement (§ 352.903). This is to assure the employee is given sufficient information to comply with the conditions for reemployment.

The regulation excludes from coverage all employees serving a trial or probationary period regardless of their type of appointment. The proposed regulations excluded such employees in the competitive service and the Senior Executive Service. As suggested by one commenter, the final regulation (§ 352.904) also excludes those in the excepted service.

One commenter suggested that since the law does not require a transferred employee to receive promotion consideration in the former agency while the employee is serving with the Commission, the regulation should not either. We agree and the provision in proposed § 351.906 has been dropped. Nevertheless, an agency may give promotion consideration to a transferred employee if consistent with the agency's merit promotion plan. Furthermore, a detailed employee remains an employee of the agency and would receive consideration for noncompetitive or competitive promotion in the same manner as would other employees.

One commenter felt the right to reemployment should not hinge on the Commission's consent to a resignation in every case and that provison should be made for instances when an employee feels compelled to resign because of exceptional circumstances. Since the law provides for reemployment upon *completion* of an employee's tour of duty with the Commission, we have not changed this provison (§ 352.907). In addition, we changed the time limit in § 352.907 for applying for reemployment to 30 days *after* rather than 30 days *before* expiration of employment with the Commission to be consistent with limits following resignation or involuntary separation.

One commenter believed the procedures for finding an appropriate position for reemployment were too complicated and proposed that the agency be required to look only in the employee's competitive area, not agencywide, to find a position at the employee's former grade. This proposal was not adopted inasmuch as the law guarantees reemployment under the same conditions as if the employee had remained with the agency. We believe it is appropriate for an agency to make an agency-wide search for a position at the former grade before subjecting the employee to possible demotion or separation by RIF. It was also suggested that a provision be added for meeting the reemployment obligation by placement in any position acceptable to the employee. We have done this and reorganized the section for greater clarity (§ 352.908).

These regulations will be supplemented by further guidance to be issued through the Federal Personnel Manual System. The Panama Canal Commission is responsible for issuing regulations that govern employment with the Commission.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal employees and agenices.

List of Subjects in 5 CFR Part 352

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, OPM is amending 5 CFR Part 352 by adding Subpart I to read as follows:

PART 352—REEMPLOYMENT RIGHTS

* * * * *

Subpart I—Reemployment Rights After Service With the Panama Canal Commission

Sec.
352.901 Purpose.
352.902 Definitions.
352.903 Effecting a detail or transfer.
352.904 Eligibility.
352.905 Employees on detail.
352.906 Termination of transfer.
352.907 Exercise or termination of reemployment rights.
352.908 Agency obligation.
352.909 Appeals.

Authority: Pub. L. 96-70, 22 U.S.C. 3643.

Subpart I—Reemployment Rights After Service With the Panama Canal Commission

§ 352.901 Purpose.

This subpart implements section 1203 of the Panama Canal Act of 1979, which provides for the detail or transfer of Federal employees to the Panama Canal Commission with reemployment rights in the former agency.

§ 352.902 Definitions.

In this subpart—

"Act" means the Panama Canal Act of 1979 (22 U.S.C. 3601 *et seq.*).

"Agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

"Commission" means the Panama Canal Commission as established by section 1101 of the Act.

"Competitive area" is defined in § 351.402 of Part 351 of this chapter.

"Competitive level" is defined in § 351.403(a) of Part 351 of this chapter.

"Detail" is the assignment of loan of an employee to the Commission without the employee's transfer. The employee remains an employee of the agency in which employed and continues to be the incumbent of the position from which detailed.

"Term of employment" means the period of employment specified in the written agreement between the Commission and the agency for the transfer of an employee or extension of transfer.

"Transfer" means the change in appointment of an employee from an agency to a new appointment with the Commission.

§ 352.903 Effecting a detail or transfer.

(a) *Authority to approve.* The head of an agency may enter into written agreements with the Commission for the detail or voluntary transfer, for set periods of time, of agency employees to the Commission in accordance with section 3643 of title 22, United States Code, and this subpart. Refusal by the head of the agency to agree to a detail or transfer, or extension of detail or transfer, is not reviewable by the Office of Personnel Management or appealable.

(b) *Employee notice.* The agency will furnish the employee with a copy of the written agreement which must contain a statement of the time limits for exercising reemployment rights and the conditions of reemployment.

§ 352.904 Eligibility.

This subpart covers only eligible employees transferred or detailed to Commission positions with duty stations in the Republic of Panama.

(a) *Employees eligible.* Except as provided in paragraph (b) of this section, an employee serving in a position in an agency under any of the following appointments may be granted rights under this subpart:

(1) Career or career-conditional appointment in the competitive service;

(2) An appointment without a specific time limit in the excepted service; or

(3) A career appointment in the Senior Executive Service.

(b) *Employee not eligible.* The following employees are not eligible under this subpart:

(1) An employee who is serving a trial period or probationary period under an initial appointment;

(2) An employee who has received a proposed notice of involuntary separation (e.g., separation based on reduction in force, adverse action, or performance);

(3) An employee who is serving in a position excepted from the competitive service under Schedule C of Part 213 of this chapter, in a position authorized to be filled by noncareer executive assignment under Part 305 of this chapter, or under Presidential appointment; or

(4) An employee whose resignation has been accepted for reasons other than to accept employment with the Commission.

§ 352.905 Employees on detail.

(a) An employee detailed to the Commission is subject to the same conditions of employment at his or her employing agency as if the employee has not been detailed.

(b) The Commission and the employing agency will arrange for the termination of a detail and the agency will return the employee to his or her former position or an equivalent one as provided in § 352.908 (b) and (c).

§ 352.906 Termination of transfer.

At the conclusion of a term of employment agreed upon as provided in § 352.903, employment with the Commission may be terminated without regard to Parts 351, 359, 432, 752, or 771 of this chapter.

§ 352.907 Exercise or termination of reemployment rights.

(a) *Exercise.* An individual who has been transferred under this subpart to the Commission and wishes to be reemployed must apply in writing to the former employing agency. The time limits for application for reemployment are—

(1) No later than 30 calendar days after the expiration of the term of employment with the Commission;

(2) No later than 30 calendar days after receipt of notice of involuntary separation during the term of employment with the Commission; or

(3) No later than 30 calendar days after resignation with the consent of the Commission.

(b) *Termination.* Reemployment rights terminate if the individual—

(1) Fails to apply within the time limits stated in paragraph (a) of this section;

(2) Resigns without the written consent of the Commission; or

(3) Within 10 calendar days, fails to accept an offer of reemployment made under § 352.908 that is determined to be a proper offer of reemployment by the reemploying agency or by the Merit Systems Protection Board on appeal.

§ 352.908 Agency obligation.

(a) *Time limits.* An employee is to be reemployed by the reemploying agency as promptly as possible, but not later than 30 calendar days after receipt of the reemployment application or on termination of the term of employment with the Commission, whichever is later.

(b) *Conditions.* An employee will be reemployed or returned from detail without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had he or she not been transferred or detailed. An employee in the Senior Executive Service will be reemployed or returned at not less than the rate at which paid immediately before the transfer or detail. An employee who is reemployed is not eligible for grade or pay retention under Part 536 of this chapter based on a grade or rate of pay attained while employed by the Commission.

(c) *Position to which entitled.*

(1) If the function with which the employee's former position was identified has been transferred, the employee's right is to a position in the gaining agency or activity.

(2) An employee whose right is to a position in the Senior Executive Service may be reemployed in or returned to any Senior Executive Service position in the former agency for which qualified.

(3) All other employees are entitled to be reemployed in or returned to a position at the same grade or level and in the same competitive area as the position last held in the former agency. If the reemployment would cause the separation or demotion of another employee, the applicant should be considered an employee for the purpose of applying the reduction-in-force regulations to determine to what, if any, position the employee is entitled. If the employee is not placed at the former grade or level, the agency must extend consideration beyond the competitive area. Responsibility for reemployment is agencywide.

(4) Reemployment may be at a higher grade than that to which the employee is entitled if all appropriate standards and requirements are satisfied and if this

will not cause the displacement of another employee.

(5) The reemployment obligation may be satisfied by placement in any position within the agency that is acceptable to the employee.

(d) *Agency refusal to reemploy.* An agency may refuse to reemploy under this section only when the employee was separated from the Commission for serious cause showing unsuitability for reemployment.

§ 352.909 Appeals.

(a) If an agency denies reemployment to an applicant who claims reemployment rights under this subpart, the agency must notify the applicant in writing of that denial and its reasons. In the same notice, the agency will inform the applicant of the right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency must comply with the provisions of § 1201.21 of this title.

(b)(1) When an agency has reemployed or returned an employee, it will advise the employee of the right of appeal if he or she considers the reemployment or return not to be in accordance with the Act and this subpart.

(2) An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude this matter must use the negotiated grievance procedure.

(3) An employee to whom paragraph (b)(2) of this section does not apply is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency must comply with the provisions of § 1201.21 of this title.

[FR Doc. 85-8395 Filed 4-8-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-314]

Oriental Fruit Fly; Removal of Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document removes from the Domestic Quarantine Notices "Subpart—Oriental Fruit Fly" quarantine and regulations which quarantined California and imposed restrictions on the interstate movement of regulated articles from a regulated area in Los Angeles County, California. The quarantine and regulations were established for the purpose of preventing the artificial spread of the Oriental fruit fly into noninfested areas of the United States. It has been determined that the Oriental fruit fly no longer occurs anywhere in California and the quarantine and regulations are no longer necessary. The effect of this action is to delete restrictions on the interstate movement of previously regulated articles from the previously regulated area in Los Angeles County.

EFFECTIVE DATE: Effective date of this amendment is April 9, 1985. Written comments concerning this interim rule must be received on or before June 10, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Robert G. Spaide, Assistant Staff Officer, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

A document published in the **Federal Register** on September 7, 1984 (49 FR 35332-35339) set forth an interim rule amending Part 301 (Domestic Quarantine Notices) of Title 7 of the Code of Federal Regulations (7 CFR Part 301) by adding a new subpart 301.93, captioned "Subpart—Oriental Fruit Fly" [7 CFR 301.93 *et seq.*; hereinafter known as regulations]. The document quarantined the State of California and established regulations restricting the interstate movement of regulated articles out of a regulated area in Los Angeles County, California, in order to prevent the artificial spread interstate of Oriental fruit fly, *Dacus dorsalis* (Hendl). Subsequently, a document was published on December 27, 1984, in the **Federal Register** amending § 301.93-3 of the regulations by expanding the area designated as a regulated area. (See 49 FR 50155-50156.) This document deletes all of Subpart—Oriental Fruit Fly from Part 301.

The regulations designated a large number of fruits, nuts, vegetables, berries, and soil as regulated articles, and a portion of Los Angeles County in California, as a regulated area. No other area in California or elsewhere in the United States was designated as a regulated area.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Oriental fruit fly no longer occurs in Los Angeles County. Specifically, the last finding of fruit flies was made on November 14, 1984. Since then no other fruit flies or other evidence of an infestation have been found. Based on departmental expertise, it has been determined that sufficient time has passed without finding additional fruit flies or other evidence of an infestation to conclude that an infestation no longer exists in Los Angeles County.

Further, trapping and sampling surveys indicate that the Oriental fruit fly does not exist in any other place in California or in the United States.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from any area in California or elsewhere in the United States because of the Oriental fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles,

it is necessary to amend 7 CFR Part 301 by removing Subpart—Oriental Fruit Fly from the Domestic Quarantine Notices.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of certain articles from a portion of Los Angeles County in California which is approximately 108 square miles in size. It appears that very little or no commercial activity occurs in this area because it is an urban area comprised primarily of private residences. The only commercial activity stems from local street vendors, ten local nurseries, and activity at the Los Angeles International Airport. The street vendors and nurseries sell regulated articles primarily for intrastate not interstate movement. Further, the only commercial activity at the Los Angeles International Airport affected by this regulation appears to be approximately 100 entities that ship regulated articles originating outside the regulated area to the Los Angeles International Airport for movement interstate or internationally. None of these entities are small entities within the meaning of the Regulatory Flexibility Act. Further, it appears that deleting the quarantine and regulations would have very little or no impact on the procedures normally followed by these entities (e.g., packing, marking and transporting) for transporting such articles, since these entities had implemented procedures independent of but consistent with the requirements imposed by the regulations.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plant (agriculture), Quarantine, Transportation, Oriental fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

§§ 301.93—301.93-10 [Subpart Removed]

Accordingly, "Subpart—Oriental Fruit Fly" (7 CFR 301.93 through 301.93-10) is removed.

Authority: 7 U.S.C. 150dd, 150ee, 161, 162; 7 CFR 2.17, 2.51 and 371.2(c).

Done at Washington, D.C., this 3rd day of April 1985.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 85-8362 Filed 4-8-85; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

7 CFR Part 1488

[Amdt. 8]

CCC Export Credit Sales Program (GSM-5)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule deletes supplements I, II and III to the Commodity Credit Corporation's (CCC) Export Credit Sales Program (GSM-5) regulations. Supplements I, II and III set forth additional detailed requirements for financing the export sales of beef breeding cattle, dairy breeding cattle, and breeding swine, respectively, under GSM-5.

EFFECTIVE DATE: April 9, 1985.

FOR FURTHER INFORMATION CONTACT: L. T. McElvain, Deputy Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250. Telephone: (202) 447-6225.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" since this rule does not have any of the effects specified in those documents.

I have determined that this rule will not have a significant economic impact on a substantial number of small entities. From past experience in operating the program, only a few small entities have participated in the program.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this rule. The environmental assessment is available for review in Room 4525, South Building, USDA during normal business hours.

On November 9, 1983, CCC published in the **Federal Register** (48 FR 51490) a proposal to delete supplements I, II and III to the CCC's Export Credit Sales Program (GSM-5) regulations (7 CFR Part 1488) which set forth additional detailed requirements for financing the export sales of beef breeding cattle, dairy breeding cattle, and breeding swine, respectively, under this program. A total of three comments was received from parties interested in the proposal. A discussion of these comments follows:

1. One commentator inquired as to why poultry was not included in the proposal.

Poultry did not apply to this proposal since specific financing requirements such as those covered by supplements I, II and III were never published in the **Federal Register** for poultry breeding stock. If CCC had wished to finance poultry sales, it could have done so under the GSM-5 general financing provisions for all agricultural commodities.

2. Another commentator, who represents 44,000 dairymen members, supported the proposal without qualification.

3. The third commentator objected to the proposal on the basis that the proposal would undermine the Berne Union Agreement and urged CCC not to provide more favorable credit terms than those outlined in the Berne Union Agreement.

The latter comment was not responsive since it was not proposed to amend the credit terms on which export sales of breeding animals would be financed but merely to delete detailed requirements for financing the export sales of breeding animals. Furthermore, CCC is not a party to the Berne Union Agreement. However, in response to this comment CCC can only extend credit terms for a maximum of three years which is consistent with provisions of the Berne Union Agreement.

After reviewing these comments, it was decided to make no change in the proposed rule. Accordingly, this final rule deletes supplements I, II and III to GSM-5. This rule also incorporates the

OMB Paperwork Reduction Act Control Number for the GSM–5 program.

In accordance with 5 U.S.C. 553(d)(1) the effective date of this rule may be less than 30 days from the date of publication since the removal of supplements I, II and III relieves special financing requirements for beef breeding cattle, dairy breeding cattle, and breeding swine, respectively.

List of Subjects in 7 CFR Part 1488

Agricultural commodities, Breeding animals, Exports, Financing, livestock.

PART 1488—[AMENDED]

Accordingly, Part 1488 of Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1488 is amended to read as follows:

Authority: Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c) and Sec. 4(a), 80 Stat. 1538, as amended by Sec. 101, 92 Stat. 1685 (7 U.S.C. 1707a(a)).

2. Part 1488 is amended by removing supplements I, II and III.

3. The table of contents for Part 1488 is amended by removing the references to supplements I, II and III at the end and by adding at the end the following:

* * * * *

Sec.

1488.23 OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act.

4. A new § 1488.23 is added to read as follows:

§ 1488.23 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 1488) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0021.

Dated: April 1, 1985.

Melvin E. Sims,

General Sales Manager and Associate Administrator and Vice President, Commodity Credit Corporation.

[FR Doc. 85–8433 Filed 4–8–85; 8:45 am]

BILLING CODE 3410–10–M

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7 CFR Part 1491

[Amdt. 1]

Intermediate Credit Export Sales Program for Breeding Animals (GSM–201)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule deletes supplements I, II and III to the Commodity Credit Corporation's (CCC) Intermediate Credit Export Sales Program for Breeding Animals regulations (GSM–201). Supplements I, II and III set forth additional detailed requirements for financing the export sales of beef breeding cattle, dairy breeding cattle, and breeding swine, respectively, under GSM–201.

EFFECTIVE DATE: April 9, 1985.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Deputy Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250. Telephone: (202) 447–6225.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since this rule does not have any of the effects specified in those documents.

I have determined that this rule will not have a significant economic impact on a substantial number of small entities. From past experience in operating the program only a few small entities have participated in the program.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this rule. The environmental assessment is available for review in Room 4525, South Building, USDA during normal business hours.

On December 13, 1983, CCC published in the **Federal Register** (48 FR 55478) a proposal to delete supplements I, II and III to the CCC's Intermediate Credit Export Sales Program for Breeding Animals regulations (GSM–201) (7 CFR Part 1491) which set forth additional detailed requirements for financing the export sales of beef breeding cattle, dairy breeding cattle, and breeding swine, respectively, under this program. Two comments were received regarding the proposal. A discussion of these comments follows:

1. One commenter, who represents 44,000 dairymen members, supported without qualification the proposal to remove supplements I, II and III from 7 CFR Part 1491.

2. The other commentator objected to the proposal on the basis that the proposal would undermine the Berne Union Agreement and urged CCC not to provide more favorable credit terms than those provided for in the Berne Union Agreement.

The latter comment was not responsive since it was not proposed to amend the credit terms on which export sales of breeding animals would be financed but merely to delete detailed requirements for financing the export sale of breeding animals. Furthermore, CCC is not a party to the Berne Union Agreement. However, in response to this comment CCC does recognize that the credit terms under the GMS–201 program could provide for longer terms than those called for in the Berne Union Agreement, but it is the opinion of CCC that the GSM–201 program can be used effectively without generating credit wars by developing and expanding foreign markets on a long-term basis for agricultural products.

After reviewing the comments, no changes were made from the proposed rule. Accordingly, this final rule deletes supplements I, II, and III to GSM–201. Also, this rule incorporates the OMB Paperwork Reduction Act Control Number for the GSM–201 program.

In accordance with 5 U.S.C. 553(d)(1) the effective date of this rule may be less than 30 days from the date of publication since the removal of supplements I, II and III relieves special financing requirements for beef breeding cattle, dairy breeding cattle, and breeding swine, respectively. Accordingly, the rule is being made effective upon the date of publication.

List of Subjects in 7 CFR Part 1491

Agricultural commodities, Breeding animals, Exports, Financing.

Part 1491—[AMENDED]

Accordingly, Part 1491 of Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1491 reads as follows:

Authority: Sec. 4(b), 80 Stat. 1537, as added by Sec. 101, 92 Stat. 1685 (7 U.S.C. 1707a(b)); Sec. 5(f), 62 Stat. 1070, as amended (15 U.S.C. 714c).

2. Part 1491 is amended by removing supplements I, II and III.

3. The table of contents for Part 1491 is amended by removing the references to supplements I, II and III at the end and by adding at the end the following:

* * * * *

Sec.

1491.22 OMB Control Number Assigned Pursuant to the Paperwork Reduction Act

4. A new § 1491.22 is added to read as follows:

§ 1491.22 OMB Control Number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this regulation (7 CFR Part 1491) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0012.

Dated: April 1, 1985.

Melvin E. Sims,

General Sales Manager and Associate Administrator and Vice President, Commodity Credit Corporation.

[FR Doc. 85–8437 Filed 4–8–85; 8:45 am]

BILLING CODE 3410–10–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 85–231]

Liquidity Definitions; Technical Amendments

Dated: March 29, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule.

SUMMARY: In order to implement changes to section 5A(b)(1)(D) of the Federal Home Loan Bank Act included in the Housing and Community Development Technical Amendments Act of 1984 ("Act"), Pub. L. 98–479, 98 Stat. 2218, the Board has adopted amendments to its final regulations regarding the treatment as liquid assets of shares in certain investment companies. The amendments permit members of the Federal Home Loan Bank System to include shares of investment companies investing in highly rated corporate debt obligations and commercial paper with specified maturities for the purpose of satisfying their liquidity requirements.

EFFECTIVE DATE: April 9, 1985.

FOR FURTHER INFORMATION, PLEASE CONTACT: Wendy Samuel, Deputy Director, ((202) 377–6445) or Carol Rosa, Legal Assistant, ((202) 377–6464), Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On October 17, 1984, the Housing and Community Development Technical Amendments Act of 1984 ("Act"), Pub. L. 98–479, 98 Stat. 2218 was signed into law. The Act amended section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(D) (1982)), permitting members of the Federal Home Loan Bank System ("member institutions") to include as liquid assets investments in shares of investment companies whose investments are limited to highly rated corporate debt obligations with three years of less remaining until maturity and highly rated commercial paper with 270 days or less remaining until maturity. Section 5A of the Federal Home Loan Bank Act imposes upon the Board the responsibility of maintaining the liquidity of member institutions to ensure "sound mortgage credit and a more stable supply of such credit", and to enable institutions "to meet withdrawals or to pay obligations" in an emergency.

Under the previous statutory authority, while direct investment by member institutions in certain corporate debt obligations and commercial paper could be counted as liquid assets, investment in investment companies that invested solely in such assets could not. 12 U.S.C. 1425a(b) (1)(D) (1982). Board regulations tracked this provision. 12 CFR 523.10(g)(8) (1984). This statutory approach was somewhat inconsistent with other provisions of section 5A(b)(1) which permitted liquid assets treatment of investments in shares of investment companies that invested in other specified types of liquid assets (12 U.S.C. 1425a(b)(1) (1982)).

By its action today, the Board amends § 523.10(g)(8) of the regulations in order to conform the regulatory language with the Federal Home Loan Bank Act, as amended by the Act, by expanding the definition of liquid assets to include shares of investment companies investing in certain corporate debt obligations and commercial paper with stated maturities. Consistent with this amendment, the Board is also amending §523.10(h)(6) to permit certain of these investment company shares to be considered short-term liquid assets.

Because these amendments implement statutory directives, the Board finds that observance of the notice and comment procedure pursuant to 5 U.S.C. 552(b) and 12 CFR 508.11 and the 30-day delay of effective date pursuant to 5 U.S.C. 552(d) and 12 CFR 508.14 is unnecessary and contrary to the public interest due to the minor, conforming nature of these amendments.

List of Subjects in 12 CFR Part 523

Banks, Banking, Liquidity, Liquid assets.

Accordingly, the Board hereby amends Part 523 of Subchapter B, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

§ 523.10 [Amended]

1. Amend § 523.10(g)(8) by adding, after the phrase "paragraphs (g) (1) through (7)", the phrase ", and (9)".

2. Amend § 523.10(h)(6) by adding, after the phrase "paragraphs (h) (1) through (5)", the phrase ", and (7)".

(Federal Home Loan Bank Act, sec. 5A, 12 U.S.C. 1425a; Reorg. Plan No. 3 of 1947, 3 CFR 1943–48 Comp., P. 1071; sec. 4, 80 Stat. 624, as amended (12 U.S.C. 1425a))

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 85–8481 Filed 4–8–85; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3151]

Commodore Business Machines, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this Consent Order requires a West Chester, PA. marketer of computer products, among other things, to cease, in connection with the advertising, sale or distribution of the Commodore 64 or any other hardware or software computer product, representing the availability or capability of a product, unless at the time of the claim the product is available for public sale in reasonable quantities, or has the claimed capability. The Order further bars the company from making any representations concerning the future availability or capability of a computer product unless the firm has a reasonable basis for the claim at the time the representation is made. The company is additionally required to maintain specified records for a period of three years.

DATE: Complaint and Order issued March 22, 1985.*

*Copies of the Complaint and the Decision and Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: FTC/B 411–6, Joel Winston, Washington, D.C. 20580, (202) 376–8648.

SUPPLEMENTARY INFORMATION: On Tuesday, August 7, 1984, there was published in the **Federal Register**, 49 FR 31440, a proposed consent agreement with analysis In the Matter of Commodore Business Machines, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.10–1 Availability of merchandise and/or service; § 13.180 Quantity; § 13.180–30 In stock; § 13.205 Scienfitic or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1710 Qualities or properties; § 13.1720 Quantity; § 13.1750 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Computer products, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85–8406 Filed 4–8–85; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket No. C–3147]

Chevron Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: After a "Request For Termination Of Hold Separate Agreement" (Request) filed by a respondent in a divestiture order issued on October 24, 1984, had been placed on the public record for ten days and no comments had been received, the Commission reviewed the Request and concluded that the public interest warranted modifying Paragraph II(c) of the Order which provided that the Agreement To Hold Separate, attached to the Order as Appendix I, "shall continue in effect until such time as Schedule A Properties have been divested. . . ." Accordingly, the Matter was reopened and Paragraph II(c) revised to permit the Hold Separate Agreement to continue in effect until such time as Gulf's stock interest in Colonial Pipeline Company has been divested. The Commission held that the Hold Separate Agreement had accomplished its primary objectives with the divestitures of Gulf's refining and marketing assets in the Southeast and of its interest in Colonial Pipeline Company, and the potential harm resulting from the costs of continuing the Agreement outweighed any further need to maintain it in effect.

DATE: Consent Order issued on October 24, 1984; Modifying Order issued on March 13, 1985.

FOR FURTHER INFORMATION CONTACT: Gerald T. Gregory L/301–22, Washington, D.C. 20580, (202) 634–4600.

SUPPLEMENTARY INFORMATION: In the Matter of Chevron Corporation, a corporation, and Gulf Corporation, a corporation. Codification appearing at 49 FR 45116 remains unchanged.

List of Subjects in 16 CFR Part 13

Gasoline, Mergers, Petroleum products, Trade practices

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18).

Before Federal Trade Commission

[Docket No. C–3147]

In the matter of Chevron Corporation, a corporation, and Gulf Corporation, a corporation. Order Modifying Decision and Order Issued October 24, 1984.

On February 21, 1985, respondent Chevron Corporation ("Chevron") filed a "Request For Termination Of Hold Separate Agreement" (Request"). Since Paragraph II(c) of the decision and order issued on October 24, 1984 ("the order") incorporates the Agreement To Hold Separate, which is attached to the order as Appendix I, the request, in effect, seeks modification of the order to terminate the Hold Separate Agreement. The Request was on the public record for ten days and no comments were received.

Paragraph II(c) of the order provides that the Agreement to Hold Separate "shall continue in effect until such time as the Schedule A Properties have been divested * * *." As the Request notes, the Hold Separate Agreement is not limited to the assets that Chevron is required to divest pursuant to the order but is applicable to all of Gulf's domestic oil and gas assets and operations. Chevron has now submitted divestiture applications covering all of the assets it is required to divest and the Commission has approved the divestitures with the exception of the divestiture of 51 percent of Gulf's interest in the West Texas Pipeline Company. The latter divestiture proposal is awaiting Commission action.

After reviewing respondent's Request, the Commission has concluded that the public interest warrants reopening the order and modifying Paragraph II(c) so that the Hold Separate Agreement will terminate on the consummation of the divestiture of Gulf's interest in Colonial Pipeline Company. The Commission has concluded that the potential harm resulting from the costs of continuing the Hold Separate Agreement outweighs any further need to maintain it in effect. The Commission is of the opinion that, with the divestitures of Gulf's refining and marketing assets in the Southeast and of its interest in Colonial Pipeline Company, the Hold Separate Agreement has accomplished its primary objectives. On the other hand, Chevron has demonstrated that the continuation of the Hold Separate Agreement, which is applicable to all of Gulf's domestic oil and gas assets and operations, is imposing considerable costs on Chevron and Gulf. These costs have been estimated to exceed $1 million a day and are being incurred because the Hold Separate Agreement prevents the realization of efficiencies that are expected to flow from integrating the operations of the two companies. Such efficiencies include those that can be achieved in combining the Chevron and Gulf work forces; increasing operating efficiencies and eliminating the duplication of functions resulting from overlapping operations in various areas; and combining desirable aspects of the technologies of the two companies. Chevron has also demonstrated that the Hold Separate Agreement is contributing to the loss of a considerable number of skilled employees who are difficult to replace and is adversely

affecting the morale and productivity of Gulf employees.

Accordingly, it is ordered that this matter be, and it hereby is, reopened, and that Paragraph II(c) of the Commission's order issued on October 24, 1984, be, and it hereby is, modified to read as follows:

* * * * *

(c) The Agreement to Hold Separate, Attached hereto and made a part hereof as Appendix I, shall continue in effect until such time as Gulf's stock interest in Colonial Pipeline Company has been divested, and Chevron and Gulf shall comply with all terms of said Agreement.

By the Commission. Commissioner Calvani voted in the negative.

Issued: March 13, 1985.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-8405 Filed 4-8-85; 8:45 am]

BILLING CODE 6750-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissable Interest Rates on Guaranteed Manufactured Home Loans, Homes and Condominium Loans, and Home Improvement Loans; Correction

AGENCY: Veterans Administration.

ACTION: Final regulations; Correction.

SUMMARY: In the Federal Register of Monday, April 1, 1985, (50 FR 12800), the VA (Veterans Administration) increased the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans were also increased. This action corrects an error in the publication.

EFFECTIVE DATE: March 25, 1985.

FOR FURTHER INFORMATION CONTACT: Mrs. Nancy C. McCoy, Paperwork Management and Regulations Service (731), Office of Information Management and Statistics, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2308).

SUPPLEMENTARY INFORMATION: In 50 FR 12801, dated Monday, April 1, 1985, in 36.4212(a)(3), the Veterans Administration inadvertently published 15½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home. This should be corrected to 15 percent simple interest per annum.

§ 36.4212 [Corrected]

Accordingly, § 36.4212(a)(3) is corrected by changing "15½ percent" to "15 percent".

Approved: April 4, 1985.

Nancy C. McCoy,

Chief, Directives Management Division.

[FR Doc. 85-8485 Filed 4-8-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-3-FRL-2814-8]

Approval of a Delayed Compliance Order Issued by the Pennsylvania Department of Environmental Resources to Brown Group Recreational Products, Inc., Hedstrom Division

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to Brown Group Recreational Products, Inc., Hedstrom Division. The Order requires the company to bring air emissions from its metal surface coating facility in Bedford, Pennsylvania into compliance with certain regulations contained in the Federally approved Pennsylvania State Implementation Plan (SIP) by April 21, 1985. Because of the Administrator's approval, compliance with the Order by Hedstrom Division will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

EFFECTIVE DATE: This rule will take effect on April 9, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph Arena, Enforcement Policy & State Coordination Section (3AM21), Air Management Division, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-6553.

ADDRESSES: A copy of the Delayed Compliance Order, and supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying (for appropriate charges) during normal business hours at: U.S. EPA, Region III, Air Management Division (3AM21), 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

SUPPLEMENTARY INFORMATION: On December 5, 1984, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 49, No. 235, a notice proposing approval of a Delayed Compliance Order issued by the Pennsylvania Department of Environmental Resources to Brown Group Recreational Products, Inc., Hedstrom Division (hereinafter Hedstrom). The notice asked for public comments by January 4, 1985 on the EPA proposal.

No public comments were received by this office, therefore, the delayed compliance order issued to Hedstrom is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Hedstrom on a schedule to bring its metal surface coating facility in Bedford into compliance as expeditiously as practicable with Title 25, Pennsylvania Code, § 129.52, "Surface Coating Processes", a part of the federally approved Pennsylvania State Implementation Plan. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Hedstrom to delay compliance with SIP regulations covered by the Order until April 21, 1985. The company is unable to immediately comply with these regulations. EPA has determined that its approval of the Order shall be effective April 9, 1985 because of the need to immediately place Hedstrom on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Implementation Plan.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413(d), 7601)

Dated: April 2, 1985.

Lee Thomas,

Administrator.

PART 65—DELAYED COMPLIANCE ORDER

In consideration of the foregoing,

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

By adding the following entry to the table in Part 65, in § 65.431:

§ 65.431 EPA Approval of State Delayed Compliance Orders Issued to Major Stationary Sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Brown Group Recreational Products, Inc.; Hedstrom Division.	Bedford, PA		Dec. 5, 1984	§ 129.52 of Title 25	Apr. 21, 1985.

[FR Doc. 85-8430 Filed 4-8-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-145; FCC 85-123]

Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC amends its rules to delete the limitation on the maximum durations of the vertical and horizontal blanking period during the transmission of video signals by television broadcast stations. This amendment is necessary to remove a rule which no longer serves a regulatory function and which restricts the broadcasting of certain historical tape recorded television programs and also the use of certain television program production equipment.

EFFECTIVE DATE: March 14, 1985.

FOR FURTHER INFORMATION CONTACT: Hank Van Deursen, Mass Media Bureau, Washington, D.C. 20554, (202) 632-9660.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of television waveform standards concerning horizontal and vertical blanking intervals; BC Docket No. 79-145; FCC 85-123, FCC 85-123.

Adopted: March 14, 1985.
Released: March 22, 1985.

By the Commission.

Introduction

1. The Commission has under consideration a *Notice of Proposed Rule Making* (*Notice*) [1] in the above captioned matter and the comments filed in response thereto.[2] The *Notice* proposed to eliminate the maximun vertical and horizontal blanking interval standards from the Rules and make such standards available in an OST technical bulletin for good engineering practices. Vertical and horizontal blanking intervals are those periods during which synchronizing pulses are transmitted to control the vertical and horizontal scanning of the television picture. No picture information is transmitted during this time.

2. The Commission's Rules presently specify minimum and maximum timing values for both the horizontal and vertical blanking intervals. Maximum horizontal blanking is 11.44 microseconds and maximum vertical blanking is 21 lines (approximately 1335 microseconds). For several years, there has been a continuing problem with television broadcast signal waveforms exceeding the maximum values contained in the Rules. When this occurs, black borders may appear at the top and left hand side of the picture. Blanking interval width increases are inherent in much equipment used to process video signals and with some video source material.

Background/Comments

3. In 1979, the National Association of Broadcasters (NAB) recommended that the Commission not enforce the maximum vertical and horizontal blanking interval standards for a five year period. This would allow the broadcast industry and equipment manufacturers an opportunity to more fully investigate the problems associated with the blanking interval timing. The Commission adopted this temporary non-enforcement posture and is now in a position to render a final decision in this matter.

4. Most respondents to the *Notice* favored the proposal to remove the maximum vertical and horizontal blanking interval standards from the Rules. The comments indicated that there is a large amount of video material that would not meet either the present standard nor somewhat more liberal standards. This category of material includes instructional television material, some material from Electronic News Gathering efforts, and news footage of historic events. They asserted that this material is of interest to the viewing audience, but correcting such material would be very expensive. In some cases, even after extensive post-processing, some material may still not conform to the blanking intervals currently specified in the Rules.

5. The NAB stated that "the industry has been diligent in attempting to comply with the intent of the blanking rules. Since the proceeding began in 1979, substantial progress has been made by broadcasters and equipment manufacturers to correct the problem, except when there is involved certain archival program material. The heightened awareness of blanking standards, created by this proceeding, has served an important purpose."

6. Only one comment was received which opposed the removal of the standards on the premise that "resistance to the standards was based on the absence of available, reasonable priced equipment for monitoring the width and position of blanking signals." The commenter stated that he has developed an inexpensive monitoring device which will detect excessive blanking intervals. However, the cost of measurement equipment is not an issue in this proceeding because stations already do have monitoring equipment capable of making these measurements. Furthermore, measurement equipment does appear to be a factor affecting the underlying causes of the blanking interval problems.

Discussion

7. The five year hiatus in enforcement of the blanking interval standard has passed and it now appears that a

[1] Adopted on November 19, 1984, 49 FR 47638 (December 6, 1984).

[2] Comments were filed by: American Broadcasting Companies, Inc (ABC); CBS, Inc. (CBS); Richard LaSota (LaSota); Multimedia, Inc (Multimedia); National Association of Broadcasters (NAB); National Broadcasting Company, Inc (NBC); Public Broadcasting Service (PBS); Television Stations WNET, KOSA, WRAU, KCAU, WSAW, WTRF, WMTV, WAFB, WCTV, KGUN, KMTV, KICU, WAKR, WWTV, WWUP, WKRG (TV Licensees). No reply comments were filed.

marketplace approach is warranted. Incorrect blanking interval timing affects only the viewers of a particular station. Other co-channel and adjacent channel stations are not affected. So the standard is really one of on-channel quality, not interference. Furthermore, there is no indication in the record that non-enforcement of the blanking intervals standards has resulted in viewer dissatisfaction with TV pictures during this period.

8. Competition is keen among broadcasters and other video suppliers, and a strong incentive exists for each station to supply the best possible picture. However, market demands may dictate a tradeoff between blanking interval timing and choices of available programming. For example, much of the archival material may not meet the standards, but such programming may be of great interest to a station's viewing audience. Government regulations should not impede the airing of such material nor require that the material undergo expensive processing prior to airing. We are confident that the broadcasters will exercise good judgment and keep their audiences in mind when choosing and supplying programming. Therefore, it seems appropriate to remove the maximum blanking interval standards from the Rules.

9. Accordingly, the current maximum blanking interval standards will be designated as recommended limits. This will provide guidance to broadcasters, production houses, and manufacturers, and will permit judgments consistent with programming needs. We would hope that eventually the industry will set its own voluntary guidelines in such quality areas.

10. Regulatory Flexibility Final Analysis.

I. *Reason for action:* The current Rules prescribe transmission standards that cannot be met by broadcasters for several sources of program material. This action should eliminate that dilemma.

II. *The objective:* The Commission's action is designed to provide broadcast licensees with more freedom in choosing program material without the fear of violating FCC technical rules.

III. *Legal basis:* Action is proposed in accordance with sections 303 (g) and (r) of the Communications Act of 1934, as amended, which charges the Commission to encourage the most effective use of radio in the public interest.

IV. *Description, potential impact, and number of small entities affected:* The rule changes should favorably affect all television broadcast stations and viewers by eliminating technical rules that now restrict the transmission of certain video material, if the material exceeds the allowed horizontal or vertical blanking interval limits.

V. *Recording, recordkeeping, and other compliance requirements:* None.

VI. *Federal Rules which overlap, duplicate, or conflict with this Rule:* None.

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

Paperwork Reduction Act

11. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Actions

12. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*)

13. Accordingly, it is ordered that Part 73 of the Commission's Rules is amended as set forth in the attached Appendix, to be effective upon adoption pursuant to section 5 U.S.C. s/s 553(d)(i). It is further ordered that this proceeding is terminated. Authority for the action taken herein is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

14. Further information on this proceeding may be obtained by contacting Hank Van Deursen, Mass Media Bureau, (202) 632-9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

Title 47 of the Code of Federal Regulations, Part 73 is amended as follows:

1. Section 73.699 Figure 6 would be amended by adding a new "Note" 19 to read as follows:

§ 73.699 TV engineering charts.

* * * * *

Notes

* * * * *

19 Maximum horizontal and vertical blanking intervals are recommended values only.

2. Section 73.699 Figure 7 would be amended by adding a new "Note" 12 to read as follows:

§ 73.699 TV engineering charts.

* * * * *

Notes

* * * * *

12 Maximum horizontal and vertical blanking intervals are recommended values only.

§ 73.4270 [Removed]

3. Section 73.4270 entitled *TV broadcast signals: Technical standards* is removed in its entirety.

[FR Doc. 85-7525 Filed 4-8-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 73 and 76

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73 and 76 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: Effective April 9, 1985.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcasting.

47 CFR Part 76

Cable television.

Order

In the matter oversight of the radio and TV broadcast rules.

Adopted: March 28, 1985.

Released: April 4, 1985.

By the Chief, Mass Media Bureau:

1. In this *Order*, the Commission focuses its attention on the oversight of

its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) As part of the restructuring and reformatting of the broadcast rule book in 1979,[1] certain requirements pertaining to broadcast applications and reports to the FCC were removed from Subpart D of Part 1 of Title 47 to Subpart H of Part 73. In order to facilitate the change and to aid rule users in tracking the new rule section numbers and locations, cross references were left in Part 1 under each rule title to "See Section 73.3xxx" (the *new* rule number). A number of these transferred rules have been eliminated in Part 73, but the cross references have not been removed from Part 1. This is corrected with following deletion amendments:

(i) Section 1.547 Application for permission to use lesser grade operators, is deleted from Part 1 as a result of Section 73.3547 being removed in the Report and Order in Docket 20817, Radio Operator Licensing Program. 46 FR 35450, July 8, 1981;

(ii) Section 1.548 Application to operate by remote control, is deleted from Part 1 as a result of § 73.3548 being removed in the Report and Order in MM Docket 84–110, Operation of AM, FM and TV Broadcast Transmitters. 49 FR 47608, December 6, 1984;

(iii) Section 1.569 Applications for frequencies adjacent to Class I–A channels, is deleted from Part 1 as a result of Section 73.3569 being removed in the Report and Order in Docket 20642, Clear Channel Broadcasting in the AM Broadcast Band. 45 FR 43172, June 26, 1980.

(iv) Section 1.611 Financial report, is deleted from Part 1 as a result of § 73.3611 being removed in the Report and Order in BC Docket 80–190, Annual Financial Report of Broadcast Stations. 47 FR 13345, March 30, 1982. (See Appendix items 1, 2, 3 and 4.)

(b) Paragraph (a) of § 73.99, pertaining to presunrise and postsunset service for daytime stations, erroneously states ". . . Provisions are made for presunrise service and postsunrise service." The "postsunrise" service reference obviously should read postsunset.

Another inadvertency is remedied in paragraph (e)(4) of this rule section. In the Memorandum Opinion and Order in BC Docket 82–538,[2] this paragraph was revised to state that "Class III stations operating PSRA and PSSA are required to provide full protection to foreign Class II stations." It was meant, of course, to read ". . . foreign Class III stations." Corrections to these errors in the rule are made via this Order. (See appendix item 5.)

(c) In a Commission Order adopted August 24, 1982,[3] effective dates, long past, were removed from paragraphs (a) and (b) of § 73.561 Operating schedule; time sharing. When the rule appeared in the next edition of the Code of Federal Regulations, subparagraphs (b) (1) and (2) had been erroneously deleted. Apparently, this was due to miscrafting when the Order and rule change were given public notice in the Federal Register. A later correction was made but apparently missed, and the printing of the October 1984 edition Code of Federal Regulations was without the subparagraphs. Those subparagraphs, (b) (1) and (2), are reinstated herein. (See appendix item 6.)

(d) In the TV table of assignments, § 73.606, certain symbols may be used with the channel numbers to designate operational (ie.e., carrier frequency offsets) or service (i.e., commercial or noncommercial station) characteristics. The use of the asterisk (*) designates the channel is to be used for noncommercial educational broadcast stations only. Channel 10 in Silver City, New Mexico bears the asterisk symbol. But, it is erroneously designated. It is *not* a noncommercial educational channel, but is assigned for commercial stations. The asterisk is deleted via this Order. (See appenix item 7.)

(e) When the rule sections pertaining to multiple ownership were removed from the separate subparts for AM, FM and TV stations, they were combined into one rule applicable to all broadcast services and placed in Subpart H of Part 73, the rule subpart where all-service applicability pertains.[4] A cross reference to the former TV Multiple Ownership rule section in Subpart E, § 73.636, still exists in § 73.683 (c)(2). This cross reference in § 73.683 is revised to read, § 73.3555, Multiple Ownership's correct and current designation. (See appendix item 8.)

(f) In paragraph (b) of § 73.1675 Auxiliary antennas, a cross reference is made to the sections pertaining to modification of transmission systems and gives section number in the separate services' subparts. Modification of transmission systems was revised in 1982[5] by combining the rules for AM, FM and TV into one regulation for all services, designated § 73.1690, and placed in Subpart H of Part 73. The cross reference shown in § 73.1675 is corrected to refer the rule user to § 73.1690. (See appendix item 9.)

(g) In § 76.99, Grandfathering, the opening sentence cross references four other Part 76 rules sections, §§ 76.92, 76.94, 76.151 and 76.153. The Report and Order in Dockets 20988 and 21284 [6] eliminated §§ 76.151 and 76.153 from the rules. The cross references to them which remains in 76.99 are removed herein. (See appendix item 10.)

2. The Commission gives continuing review of its rules pursuant to section 610 of the Regulatory Flexibility Act of 1980. 5 U.S.C. 610. The purpose of the review is to determine if our rules impose a significant economic impact on a substantial number of small entities. Our rule evaluations in the period of January 1 to March 12 encluded 11 rule sections in Part 73, Subpart E of 47 CFR; and 31 rules sections in Part 73, Subpart H of 47 CFR.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

4. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules, Parts 73 and 76 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective upon publication in the **Federal Register**.

7. For further information on this *Order*, contact Steve Crane, (202) 632–5414, Mass Media Bureau.

[1] Order, In the Matter or Reregulation of Radio and TV Broadcasting, 72 FCC 2d, 534.
[2] 49 FR 17942, April 26, 1984.
[3] 47 FR 40170, September 13, 1982.
[4] Report and Order in Docket No. 20521, Multiple Ownership of AM, FM, TV, and CATV Stations. 49 FR 19482, May 8, 1984.
[5] 47 FR 8590, March 1, 1982.
[6] 45 FR 60186, September 11, 1980; 79 FCC 2d 663.

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

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 1—[AMENDED]

§ 1.547 [Removed]

1. 47 CFR 1.547 *Application for permission to use lesser grade operators* is removed in its entirety.

§ 1.548 [Removed]

2. 47 CFR 1.548 *Application to operate by remote control* is removed in its entirety.

§ 1.569 [Removed]

3. 47 CFR 1.569 *Applications for frequencies adjacent to Class I–A channels* is removed in its entirety.

§ 1.611 [Removed]

4. 47 CFR 1.611 *Financial Report* is removed in its entirety.

PART 73—[AMENDED]

5. 47 CFR 73.99 is amended by revising paragraphs (a) and (e)(4) to read as follows:

§ 73.99 Presunrise service authorization (PSRA) and Postsunset service authorization (PSSA).

(a) To provide the maximum uniformity in early morning operation compatible with interference considerations, and to provide for additional service during early evening hours for daytime-only stations, provisions are made for presunrise service and postsunset service. The permissible power to be assigned to presunrise or postsunset service authorization will not exceed 500 watts, or the authorized daytime or critical hours power (whichever is less).

* * * * *

(e) * * *

(4) Class III stations operating PSRA and PSSA are required to provide full protection to co-channel foreign Class III stations.

* * * * *

6. 47 CFR 73.561 is amended by adding paragraphs (b)(1) and (b)(2) to read as follows:

§ 73.561 Operating schedule; time sharing.

* * * * *

(b) * * *

(1) The licensee and the prospective licensee(s) shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and shall set forth which licensee is to operate on each of the hours of the day throughout the year. Such agreement shall not include simultaneous operation of the stations. Each licensee shall file the same in triplicate with each application to the Commission for initial construction permit or renewal of license. Such written agreements shall become part of the terms of each station's license.

(2) The Commission desires to facilitate the reaching of agreements on time sharing. However, if the licensees of stations authorized to share time are unable to agree on a division of time, the Commission shall be so notified by statement to that effect filed with the application proposing time sharing. Thereafter the Commission will designate the application for hearing on any qualification issues arising regarding the renewal or new applicants. If no such issues pertain, the Commission will set the matter for expedited hearing limited solely to the issue of the sharing of time. In the event the stations have been operating under a time sharing agreement but cannot agree on its continuation, a hearing will be held, and pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

* * * * *

§ 73.606 [Amended]

7. 47 CFR 73.606, *Table of Assignments*, is amended by removing the asterisk (*) designation from Channel 10+, under the community of Silver City in the New Mexico listing of TV channels.

8. 47 CFR 73.683 is amended by revising paragraph (c)(2) to read as follows:

§ 73.683 Field strength contours.

* * * * *

(c) * * *

(2) In connection with problems of coverage arising out of application of § 73.3555.

* * * * *

9. 47 CFR 73.1675 is amended by revising paragraph (b) to read as follows:

§ 73.1675 Auxiliary antennas.

* * * * *

(b) An application for a construction permit to install a new auxiliary antenna, or to make changes in an existing auxiliary antenna for which prior FCC authorization is required (see § 73.1690), must be filed on FCC Form 301 (FCC Form 340 for noncommercial educational stations).

* * * * *

10. 47 CFR 76.99 is revised to read as follows:

§ 76.99 Grandfathering.

The provisions of §§ 76.92 and 76.94 shall not be deemed to deprive a TV station whose signal was carried by a community unit prior to March 31, 1972, of the nonnetwork program exclusivity rights that such station had on March 30, 1972. However, such exclusivity rights shall extend only to simultaneous duplication of programming by lower priority television stations, unless the stations whose exclusivity rights are at issue is entitled to same-day network program nonduplication protection pursuant to § 76.94(b), in which case that station shall also be entitled to continued same-day nonnetwork program exclusivity.

[FR Doc. 85-8446 Filed 4-8-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 81

[PR Docket No. 84-760]

Restricted Radiotelephone Operator Permit (RP)

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Report and Order which was printed in the Federal Register on February 11, 1985 (50 FR 5590). The Appendix to the Report and Order inadvertently omitted reference to the requirements for coast stations in Alaska. This document is intended to correct the Report and Order to specifically reference these requirements.

FOR FURTHER INFORMATION CONTACT: Loretta J. Garcia, Private Radio Bureau, Aviation and Marine Branch, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Telephone.

Erratum

In the Matters of Amendment of Parts 81, 83 and 87 of the rules concerning requirements for Restricted Radiotelephone Operator Permits; PR Docket No. 84-760.

Released: April 3, 1985.

1. On January 30, 1985, the Commission released a Report and Order in the above-captioned proceeding, FCC 85-42, 50 FR 5590. In the Appendix, § 81.152(d) inadvertently omitted reference to the requirements for coast stations in Alaska. We are amending § 81.152(d) to specifically reference these requirements.

2. Accordingly, § 81.152(d) is corrected as set forth in the Appendix below.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA FIXED SERVICE

Section 81.152 is amended by revising paragraph (d) to read as follows:

§ 81.152 Operator required.

* * * * *

(d) Description of station:

	Minimum operator authorization
Public coast telegraph, all classes	T-2.
—Except A1 Morse under supervision of T1 or T2.	T-3.
—Except NB-DP under supervision of T1 or T2.	T-3, G or MP.
Coast telephone, all classes:	
—Exceeding 250 watts carrier power or 1,500 watts peak envelope power.	T-2 or G.
Except in Alaska regional and local area stations.	T-3, G or MP.
—250 watts or less carrier power or 1,500 watts or less peak envelope power operating on frequencies *below* 30 MHz.	T-3, G or MP.
Except in Alaska	None.
—250 watts or less carrier power or 1,500 watts or less peak envelope power operating on frequencies *above* 30 MHz.	None.

* * * * *

[FR Doc. 85-8441 Filed 4-8-85; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 50, No. 68
Tuesday, April 9, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Ch. X

[Docket Nos. AO–160–A62–RO2, et al.]

Milk in Middle Atlantic and Other Marketing Areas; Extension of Time for Filing Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic	AO–160–A62–RO2
1001	New England	AO–14–A60
1002	New York-New Jersey	AO–71–A74–RO1
1006	Upper Florida	AO–356–A21
1007	Georgia	AO–366–A23
1011	Tennessee Valley	AO–251–A26
1012	Tampa Bay	AO–347–A24
1013	Southeastern Florida	AO–286–A31
1030	Chicago Regional	AO–361–A21
1032	Southern Illinois	AO–313–A32
1033	Ohio Valley	AO–166–A53
1036	Eastern Ohio-Western Pennsylvania	AO–179–A48
1040	Southern Michigan	AO–225–A36
1044	Michigan Upper Peninsula	AO–299–A23
1046	Louisville-Lexington-Evansville	AO–123–A52
1049	Indiana	AO–319–A33
1050	Central Illinois	AO–355–A22
1064	Greater Kansas City	AO–23–A55
1065	Nebraska-Western Iowa	AO–86–A42
1068	Upper Midwest	AO–178–A38
1075	Black Hills	AO–248–A18
1076	Eastern South Dakota	AO–260–A26
1079	Iowa	AO–295–A35
1093	Alabama-West Florida	AO–386–A2
1094	New Orleans-Mississippi	AO–103–A43
1096	Greater Louisiana	AO–257–A31
1097	Memphis	AO–219–A39
1098	Nashville	AO–184–A46
1099	Paducah	AO–183–A38
1102	Fort Smith	AO–237–A32
1106	Southwest Plains	AO–210–A44
1108	Central Arkansas	AO–243–A36
1120	Lubbock-Plainview	AO–328–A25
1124	Oregon-Washington	AO–368–A13
1125	Puget Sound-Inland	AO–226–A30
1126	Texas	AO–231–A52
1131	Central Arizona	AO–271–A25
1132	Texas Panhandle	AO–262–A35
1134	Western Colorado	AO–301–A18
1135	Southwestern Idaho-Eastern Oregon	AO–380–A4
1136	Great Basin	AO–309–A25
1137	Eastern Colorado	AO–326–A22
1138	Rio Grande Valley	AO–335–A30
1139	Lake Mead	AO–374–A9

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of Time for filing exceptions to proposed rule.

SUMMARY: This notice extends by 30 days the time for filing exceptions to a recommended decision issued March 15, 1985, concerning proposed amendments to the Middle Atlantic and other milk marketing orders. The recommended decision concerns proposals that were considered on the record of a public hearing held July 25–27, 1984, at Alexandria, Virginia. The request for additional time was made by a cooperative association.

DATE: Exceptions are now due on or before May 20, 1985.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 22, 1984; published June 27, 1984 (49 FR 26239).

Notice of Rescheduled Hearing: Issued July 3, 1984; published July 6, 1984 (49 FR 27769).

Recommended Decision: Issued March 15, 1985; published March 20, 1985 (50 FR 11171).

On April 1, 1985, the order regulating the handling of milk in the St. Louis-Ozarks marketing area was terminated. Therefore, any action taken after that date in regard to proposals pursuant to notices issued June 22, 1984 (49 FR 26239) and July 3, 1984 (49 FR 27769) will not apply to docket number AO–10–A56.

Notice is hereby given that the time for filing exceptions to the recommended decision issued March 15, 1985 (50 FR 11171), concerning proposals pursuant to notices issued June 22, 1984 (49 FR 26239) and July 3, 1984 (49 FR 27769) is hereby extended to May 20, 1985. The decision is based on the record of a public hearing held July 25–27, 1984, at Alexandria, Virginia, to consider proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and other marketing areas.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 602 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

List of Subjects in 7 CFR Ch. X

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, DC., on: April 4, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–8478 Filed 4–8–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1032

Milk in the Southern Illinois Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions relating to how much milk may be moved directly from farms to nonpool plants and still be priced under the order. The proposed suspension would remove the limits on such movements of milk during the month of April 1985. The action was requested by six cooperative associations that represent a substantial majority of the producers who supply the market. The cooperatives contend that the suspension is necessary to provide additional flexibility to allow efficient and orderly adjustments by market participants to charges in marketing conditions that will occur because of the termination of the adjacent St. Louis-Ozarks order effective April 1, 1985.

DATE: Comments are due not later than April 16, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

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

Notice is hereby given that, pursuant ot the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Illinois marketing area is being considered for the month of April 1985.

In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Divisions, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not less than 7 days from the date of publication of this notice in the **Federal Register.** The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for April 1985.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove the limit on the amount of milk that may be diverted from pool plants to nonpool plants during the month of April 1985. The order now provides that during the month of April not more than 8 days of production of a producer may be diverted to nonpool plants. During the following months of May through July the order does not limit the amount of milk that may be diverted to nonpool plants.

The suspension was requested by six cooperative associations that requested a substantial majority of the producers who supply the market. The cooperatives indicate that the suspension is necessary to provide additional flexibility for market participants to adjust to changes in marketing conditions that will occur because of the termination of the adjacent St. Louis-Ozarks order effective April 1, 1985. When such order is terminated, a number of fluid milk plants in the St. Louis metropolitan area, and a substantial volume of producer milk associated with such plants, will become regulated under the Southern Illinois order. The cooperative associations who supply the fluid milk needs of the market expect that significant marketing adjustments will have to be made to accommodate to the structural changes in the market. They contend that a suspension of the diversion limits during April will provide market participants with a greater degree of flexibility in making adjustments to the marketing condition changes. They believe that the April through July period (there are no diversion limitations during May-July) will allow for adjustments to the termination of the St. Louis-Ozarks order to be made in an efficient manner.

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C. on, April 4, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-8479 Filed 4-8-85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain standards for regulating plants that are operated by cooperative associations under the Southwest Plains order. The proposed action for April through August 1985 would remove the requirements that certain plants operated by cooperative associations need to be located in the marketing area or in a county adjacent to the marketing area to become regulated under the order. The action was requested by Mid-America Dairymen, Inc., a cooperative association that operates supply plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri that will become regulated under the Southwest Plains order when the adjacent St. Louis-Ozarks order is terminated effective April 1, 1985. The cooperative association contends that without the suspension costly and inefficient movements of milk would have to be made solely for the purpose of assuring that dairy farmers, who supply the fluid milk needs of southwest Missouri plants, will have their milk priced and pooled under the order.

DATE: Comments are due not later than April 16, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2089.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of April through August 1985.

In § 1106.7(c), the words "located in the marketing area or in a county adjacent to the marketing area".

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register.** The period for filing comments is limited because a longer period would not provide the

time needed to complete the required procedures to include the month of April in the suspension period.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The order currently provides for the pooling of cooperative association plants that are located in the marketing area or a county adjacent to the marketing area if 50 percent or more of the producer milk of members of a cooperative association is physically received at distributing plants. The proposed suspension would remove the requirement that cooperative association plants need to be located in the marketing area or in a county adjacent to the marketing area during the months of April through August 1985.

The action was required by Mid-America Dairymen, Inc., a cooperative association that operates plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri. The distributing plants in this area, and the supplies of producer milk associated with such plants, will become associated with the Southwest Plains order when the adjacent St. Louis-Ozarks order is terminated effective April 1, 1985. The cooperative association contends that during the spring and summer months there is a sufficient supply of direct-shipped milk available to furnish the fluid milk requirements of the distributing plants in southwest Missouri. Consequently, the cooperative association contends that without a suspension action, costly and inefficient movements of milk would have to be made solely for the purpose of assuring that dairy farmers, who constitute the source of supply for southwest Missouri distributing plants, will have their milk priced and pooled under the order.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

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

Signed at Washington, D.C. on: April 4, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85–8480 Filed 4–8–85; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Criteria for an Extraordinary Nuclear Occurrence

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its regulations to revise the criteria for an "extraordinary nuclear occurrence" (ENO). If a nuclear incident were found by the Commission to be an "extraordinary nuclear occurrence," several legal defenses would be waived including the necessity of persons with damage claims to prove negligence. The proposed changes are designed to simplify the administrative criteria used by the Commission in making an ENO determination and to avoid the problems encountered by the Commission in applying the existing criteria to the accident at the Three Mile Island nuclear plant (TMI). These proposed changes will affect applicants for and holders of NRC licenses for production and utilization facilities and other persons indemnified as to such facilities.

DATE: The comment period expires on August 7, 1985. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given unless the comments are filed on or before that date.

ADDRESSES: All interested persons who desire to submit written comments or suggestions in connection with this proposed rule should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of all documents received may be examined and copied in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: H.T. Peterson, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427–4578.

SUPPLEMENTARY INFORMATION:

I. Background

In the event of a nuclear incident, claims for injuries or damages can be brought against the plant licensee and other parties considered responsible for the incident. The Price-Anderson provisions of the Atomic Energy Act (AEA) of 1954, as amended, (section 170) provide a system of private insurance and electric utility funds totaling over $560 million to pay pay public liability claims. One of the principal obstacles to a claimant's recovery for injuries or damages could be the necessity for the claimant to prove negligence on the part of the defendants or the absence of contributory negligence on the part of the claimant. Congress attempted to remove this obstacle in 1966 by amending the Price-Anderson Act to require the waiver of certain defenses by an indmnified person when the nuclear accident magnitude "triggered" the ENO criteria.

When the Commission determines that a nuclear incident is an "extraordinary nuclear occurrence" within the meaning of the Act and the Commission's regulations, the waiver of defenses provisions contained in the insurance policies and indemnity agreements implementing the Price-Anderson system are activated. As provided by section 170n(1) of the Atomic Energy Act of 1954, as amended, the waived defenses include:

(i) Any issue or defense as to the conduct of the claimant or fault of persons indemnified,

(ii) Any issue or defense, as to charitable or governmental immunity, and

(iii) Any issue or defense based on any statute of limitation if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than twenty years after the date of the nuclear incident.

The waivers of defenses, once triggered by an ENO determination by the Commission, relieve the claimant of having to prove negligence by a defendant and of having to disprove defenses such as contributory negligence. Whether or not an ENO is declared, however, a claimant would still have to prove: (a) Personal injury or damage, (b) amount of monetary loss, and (c) the causal link between the claimant's loss and the radioactive material released.

The term "extraordinary nuclear occurrence" is defined by section 11(j) of the Atomic Energy Act as follows:

The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted

or probably will result in substantial damages to persons offsite or property offsite.

This provision clearly calls for a two-pronged determination: (a) Substantial offsite release or substantial offsite radiation, and (b) actual or prospective substantial offsite damages. This section also requires the Commission to "establish criteria in writing" for application of these tests to specific events.

The Commission's present regulations were established in 1968 (33 FR 15998) and are found in 10 CFR 140.84 and 140.85. Consistent with the statutory definition, for the Commission to determine that there has been an ENO, the Commission must find that both substantial releases of radioactive materials or substantial offsite doses *and* substantial injury or substantial damages have occurred (both Criterion I and Criterion II must be met). The language of the regulation, especially that related to Criterion I, is rather technical and precise.

Criterion I

Criterion I relates to whether there has been a substantial discharge or dispersal of radioactive material offsite, or whether there has been a substantial level of radiation offsite. Criterion I calls for such a finding when radioactive material is released from its intended place of confinement or radiation levels occur offsite and *either* of the following findings are also made:

a. That one or more persons offsite were, could have been, or might be exposed to radiation or to radioactive material, resulting in a dose or in a projected dose in excess of one of the levels in the following table:

TABLE I.—TOTAL PROJECTED RADIATION DOSES

Critical organ	Dose (rems)
Thyroid	30
Whold body	20
Bone Marrow	20
Skin	60
Other organs or tissues	30

In measuring or projecting doses, exposures from the following types of radiation shall be included:

(1) Radiation from sources external to the body;

(2) Radioactive material that may be taken into the body from air or water; and

(3) Radioactive material that may be taken into the body from its occurrence in food or on terrestrial surfaces.

or

b. (1) Surface contamination of at least a total of any 100 square meters of offsite property has occurred as a result of a release of radioactive material from a production or utilization facility and such contamination is characterized by levels of radiation in excess of one of the values listed in column 1 or column 2 of the following table, *or*

(2) Surface contamination of any offsite property has occurred as the result of a release of radioactive material in the course of transportation and such contamination is characterized by levels of radiation in excess of one of the values in column 2 of the following table:

TABLE II.—TOTAL SURFACE CONTAMINATION LEVELS [1]

Type of emitter	Column 1 Offsite property contiguous to site; owned or leased by a person with whom an indemnity agreement is executed.	Column 2 Other offsite property
Alpha emission from transuranic isotopes.	3.5 microcuries per square meter.	0.35 microcuries per square meter.
Alpha emission from isotopes other than transuranic isotopes.	35 microcuries per square meter.	3.5 microcuries per square meter.
Beta or gamma emission.	40 millirads/hour at 1 cm. (measured through not more than 7 milligrams per square centimeter of total absorber).	4 millirads/hour at 1 cm. (measured through not more than 7 milligrams per square centimeter of total absorber).

[1] The maximum levels (above background), observed or projected, 8 or more hours after initial deposition.

If Criterion I is satisfied, Criterion II must then be applied.

Criterion II

Criterion II is satisfied if *any* of the following findings is made:

(1) The event has resulted in the death or hospitalization, within 30 days of the event, of five or more people located offsite showing objective clinical evidence of physical injury from exposure to the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material; *or*

(2) $2,500,000 or more of damage offsite has been or will probably be sustained by any one person, or $5 million or more of such damage in total has been or will probably be sustained, as the result of such event; *or*

(3) $5,000 or more of damage offsite has been or will probably be sustained by each of 50 or more persons, provided that $1 million or more of such damage in the aggregate has been or will probably be sustained, as the result of such events.

The term "damage" refers to damage arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material, and shall be based upon estimates of one or more of the following:

(1) Total cost necessary to put affected property back into use,

(2) Loss of use of affected property,

(3) Value of affected property where not practical to restore to use,

(4) Financial loss resulting from protective actions such as evacuation appropriate to reduce or avoid exposure to radiation or to radioactive materials.

II. Problems in Application

The accident at the Three Mile Island Nuclear Power Station, Unit 2, on March 29, 1979 uncovered several problems in applying the existing ENO criteria in 10 CFR 140.84 and 140.85. The Commission's determination that the accident at TMI was not an "extraordinary nuclear occurrence" was published in the **Federal Register** on April 23, 1980 (45 FR 27590). This determination was based in part on NRC staff report NUREG–0637, "Report to the Nuclear Regulatory Commission from the Staff Panel on the Commission's Determination of an Extraordinary Nuclear Occurrence (ENO)", dated January 1980. This report is available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A single copy of the report NUREG–0637 may be obtained free upon request from the Nuclear Regulatory Commission, Publication Services Section, Washington, DC 20555.

Basically, there are problems with the existing ENO criteria. These problems are:

1. Several of the dose criteria for "substantial releases" in the present regulation were formulated in part to be consistent with the then effective Protective Action Guides. Since 1968 proposed Protective Action Guides have been reformulated at lower dose levels.

2. The current Criterion II for "substantial injury" requires objective clinical evidence of radiation injury. However, tests for evidence of such injury are not necessarily conclusive proof of radiological injury. For example, psychological stress can manifest some physical symptoms similar to those associated with acute radiation injury.

3. Monetary damages in Criterion II were difficult, if no impossible, to

evaluate accurately in a timely manner. For example, in the ENO determination for the Three Mile Island Accident, compensation costs such as payments for evacuation were evaluated and tabulated. However, many damages, such as diminution of property values and business losses, required court adjudication before the proper compensation could be awarded.

III. Proposed Criteria

The Commission is proposing for comment three different options for determining whether an accident was an extraordinary nuclear occurrence. The first and second options retain the structure of the existing criteria and contain explicit criteria for both substantial releases and substantial damages. These options employ estimates of offsite doses and ground contamination as indicators of substantial releases but have separate criteria for substantial damages. These two options also seek to avoid the measurement problems encountered in applying the present criteria for "substantial damages" by focusing the criteria on costs which can be readily counted or estimated. The first two options differ in that the Commission is proposing alternative wording of these criteria for public comment.

The Commission is also interested in obtaining public comments on a third option for defining an ENO. This third option represents a new and arguably more simplified approach to arrive at ENO criteria which could be readily evaluated following a nuclear accident. This option focuses on establishing that a major release of radioactive materials has occurred with concomitant high offsite radiation levels or contamination. It does not require that doses to individuals be evaluated, nor does it require that property damage estimates or evacuation characteristics be evaluated. Further, this criterion for substantial releases does not require the NRC staff to evaluate exposure conditions such as occupancy time or building shielding factors for actual or hypothetical individuals and, consequently, would simplify the data collection and analysis following an accident. Thus, this option may be viewed as more straight forward than the other option. It allows for direct measurement of discharge of material or radiation levels, and by virtue of the strong causal relation between release of radionuclides and damages, it defines, by direct measurement, the conditions under which the Criterion II requirement of substantial damages is met. Therefore, its intent is that procedural barriers to a rapid determination should be minimized.

Option 1

Criterion I is a mechanism for determining that a substantial release of radioactive material or radiation offsite has occurred. Currently Criterion I specifies a 20-rem (0.2-sievert)* whole body dose to one person offsite with higher values for specific organs. The proposed regulation would lower these levels to a 5-rem whole body dose with correspondingly lower organs doses. This proposed modification has been selected to be numerically consistent with Protective Action Guides proposed by the Enivronmental Protection Agency[1] and those issued by the Food and Drug Administration.[2] This ensures that any nuclear accident which would have warranted protective actions will be found to involve a substantial release of radioactive materials which satisfy the first condition for an ENO determination.

The proposed dose levels for Criterion I, which would define levels of "substantial releases or substantial offsite doses" for screening purposes, are in the range of the occupational dose limits and hence could be regarded as too low to be viewed as being "substantial." However, these doses criteria are substantially above the doses to the general public expected from normal operation of NRC-licensed facilities as limited by § 20.105 of 10 CFR Part 20 and, in that sense, constitute criteria for "substantial releases."

The words "* * * one or more persons offsite were, could have been or might be exposed * * *" in the current criterion would be replaced with the proposed words: "* * * one or more persons offsite were or will probably be exposed * * *" This proposal will remove the necessity to evaluate highly improbable "might have been" conditions in favor of conditions which would be more likely to occur.

The surface contamination levels in Criterion I will not be changed as those levels are consistent with proposed emergency response levels. The existing procedures in § 140.84(b) are inexpensive and can be performed rapidly. Although more sophisticated measurement techniques are available and specific radionuclide levels could be measured, the existing simpler tests provide adequate indication of contamination levels for an ENO determination.

Criterion II, which defines substantial damages, would be changed extensively. Instead of the present criterion based upon the total monetary worth of damages or clinical evidence of radiation injury, the proposed Criterion II for the amount of damages represents items for which information is readily available within the time frame for an ENO determination. For each of the monetary requirements, the total valuation is assumed to be equivalent to a loss of $2.5 million. This value is in the present ENO criterion as the amount of loss to a single individual which would constitute an ENO. The Commission no longer believes it necessary or useful to specify different amounts of monetary damages depending upon the number of people affected.

Criterion II (1) accounts for human injury. One alternative that the Commission is considering would replace the current criterion for clinical injury to 5 or more people with a requirement that 5 or more receive radiation doses which are in the range that would produce symptoms of "radiation sickness." For the purpose of this evaluation, clinical findings of radiation injury in the current criteria would not be required, only a showing that five or more people received doses in excess of 100 rads (1 Gy).* This is expressed in rads because the unit of dose equivalent (rem or sievert) requires a dose quality factor (QF) be used. In the range of doses which could cause acute injury such as the 100-rem (1-sievert) dose, the appropriate quality factor is dependent upon the specific biological end point.

In evaluating the doses for defining "substantial injury", the Commission intends that the methodology used for the evaluations be realistic rather than overly conservative. Parameters and models used in Regulatory Guide 1.109[3] are suitable for this purpose to the extent that they apply to accident conditions.

In this proposal, the present monetary values for property damage in the

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* A sievert (Sv) is the SI unit of dose equivalent: 1 Sv = 100 rem; 1 rem-centisievert (1 cSV) or 0.01 sievert.

[1] Environmental Protection Agency, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents" EPA Report EPA-520/1-75-001 (Revised June 1980).

[2] Food and Drug Administration "Accidental Radioactive Contamination of Human Food and Animal Feeds: Recommendation for State and Local Agencies," published in the **Federal Register** on October 22, 1982 (47 FR 47073).

* Gray is the SI unit of absorbed dose. 1Gy = 100 rads; 1 rad = 0.01 gray.

[3] Regulatory Guide 1.109, "Calculation of Annual Doses to Man from Routine Releases of Reactor Effluents for the Purpose of Evaluating Compliance with 10 CFR Part 50, Appendix I". Available from Director, Division of Technical Information and Document Control, USNRC, Washington, DC 20555.

existing Criterion II would be replaced by things that could be readily counted or estimated within a relatively short time following an accident, such as tax assessments, numbers of people unemployed, and numbers of people evacuated. In Criterion II (2), the assessed value of property requiring decontamination is used as an index of damage. Criterion II (3) is based upon an assumed loss (to the person directly affected and others) of $100 per person-day of lost employment. In Criterion II (4) a cost of $25 per person-day for evacuees is used to arrive at the number of evacuees equivalent to the $2.5 million loss.

Option #2—Commissioner Asselstine's Proposals

Commissioner Asselstine has proposed alternatives to criteria for defining substantial releases and for specifying substantial injury. In Criterion I, in place of the change proposed in Option #1 for redefining substantial releases, Commissioner Asselstine would prefer that, instead of the present Part 140 wording: " " " one or more persons were, could have been or might be exposed " " ";" the text would read:

" " " a person or persons on or near any site boundary throughout the duration of the accident " " "

This permits the Commission to make the ENO evaluation based upon the estimated dose to an individual who possibly was at or near the site boundary throughout the course of the accident. As was the case with Option #1, this proposal also eliminates the uncertain "might have been" condition and employs the proposed revised dose criteria.

An alternative criterion for defining substantial injury has been proposed by Commissioner Asselstine. This alternative represents a change from using acute injury, such as in the present criterion for "objective clinical evidence of radiation injury" to five people or the death of the five people, or using a high dose to a few exposed individuals such as the 100-rem (1 sievert) dose to five people proposed in Option #1. Option #2 would use a requirement that a 100,000 person-rem (1,000 person-sieverts) collective dose delivered to the population within fifty miles as only indication of the potential impact of the accident on the surrounding population. This is consistent with findings that the latent effects of a serious nuclear accident could far outweigh the observable acute affects.

The proposed changes to the criteria for substantial damage are those proposed in Option #1.

Option #3—Commissioner Bernthal's Proposal

The rule presented as Options #1 and #2 resemble the existing ENO criteria in 10 CFR Part 140, Subpart E in several respects. The proposed organization is similar in that separate criteria are retained for substantial releases and doses and for substantial injury or damage. Both sets of criteria require the evaluation of doses to people. This might require that data on occupancy times, food comsumption, and movement be collected for those people living in the immediate vicinity of the facility or accident site. Both Option #1, Option #2, and the existing criteria require enumeration and valuation of damages. Although these options restrict the damages that the Commission must consider to those which can be more readily evaluated, the time and effort required for such an analysis could still be large. Moreover, damage costs or values could be required for property other than taxable property such as municipal utilities, churches, and schools. Although Option #1 and Option #2 would rectify a number of the problems with the existing ENO criteria, they do not represent a radical departure from them and fail to solve totally the problems associated with evaluation of damages.

The statutory definition of an ENO permits the Commission to make a definition that an ENO has occurred if there have been substantial releases of radioactive materials or substantial offsite doses which have resulted or will probably result in substantial injury or substantial damages. The current criteria and the revisions proposed above place more emphasis on releases of radioactive materials "which have resulted" in substantial injury or damage and thus require a detailed enumeration of such injuries or damages as have occurred. Option #3 proposed by Commissioner Bernthal suggests a different approach to decide whether a nuclear accident is an extraordinary nuclear occurrence in that it emphasizes the "will probably result" aspect in dealing with substantial injury or damages. Rather than requiring enumeration and evaluation of actual damages and identification of actual injuries, the Option #3 simplifies the Commission's task to identifying those conditions which could lead to injury or damages.

The ENO criteria in Option #3 depart from the two-tiered approach which first requires a finding that substantial releases (or doses) occurred and then determining that substantial injury or damages resulted. Instead, one set of criteria is given for the magnitude of releases and doses that the Commission believes will satisfy the conditions for both substantial releases and will probably result in injury or substantial damages.

A principal basis of an ENO determination is that an event occurred which released radioactive materials in such quantities that the event is clearly "extraordinary" compared to normal operation. This provides the threshold level to ensure that the waivers of defenses and other legal provisions of the Price-Anderson amendments of 1966 are not activated as a result of minor expected operational occurrences. Options #1 and #2 and the present criteria for substantial release set this threshold at a low level to provide a "trigger" for identifying events which might be classed extraordinary nuclear occurrences. Section 140.81(a) of 10 CFR Part 140 clearly states that the present criterion is below that where substantial injury or damage would result. This is also true for the proposed revisions especially as the numerical criterion for substantial releases is less than in the existing Part 140.

For Option #3, a release of radioactive materials which results in doses or dose rates offsite of a magnitude equal to or greater than the proposed criterion will suffice to demonstrate that substantial releases of offsite doses have occurred and that substantial damage will probably occur. Enumeration of actual damages is not required to satisfy the criterion. Based upon the experience with the ENO determination for the Three Mile Island accident, this simplification would be of great value to a prompt ENO determination. The Commission believes that such simplification warrants the issuance of this novel proposal for public comment.

Of the three conditions associated with Option #3, Conditions (a) and (b) apply primarily to accidents at commercial light-water reactors. Condition (a) applies to surface contamination which would result from deposited radioactive materials from serious accidents releasing particulates or semi-volatile materials. Condition (a) is considered a threshold for damage requiring extensive decontamination. Damage requiring interdiction or damage resulting in significant harm to people (early injuries, early deaths and latent effects) is considered well above this threshold and, therefore, is adequately covered by this condition. Condition (b) uses a 24-hour integrated dose of 10 rad (0.1 gray) as a measure of the dose which could be received by an

individual from releases including those from accidents from which only the noble gases are released. This dose criterion does not use the dose received by a specific individual or group of individuals. Rather, it is the dose which could have been received during the duration of the accident. The values of these conditions were selected to be far above doses or exposure rates which could occur from normal operation under existing radiation protection standards.

Commissioner Bernthal's proposal (Option #3) relies on the "will probably occur" aspect of the statutory ENO definition. It should be noted that this option would trigger the waivers of defenses and other resultant actions of an affirmative ENO determination without first having to establish that substantial injuries or damages have actually occurred. The criterion in Option #3 should ensure that an affirmative ENO determination will be reached in any situation which would give rise to substantial injury or damage, and, conversely, that it would be difficult to exceed the criterion in situations where accident consequences were minor. This should provide the threshold intended by the ENO concept.

IV. Petition for Rulemaking

In a petition (PRM–140–1) to the NRC, the Public Citizens Litigation Group and Critical Mass Energy Project requested that the accident at the Three Mile Island Nuclear Station Unit No. 2 be found to be an ENO. This portion of the petition was considered as part of the ENO determination already initiated by the Commission. The Commission later determined (as published in the **Federal Register** on April 23, 1980 [45 FR 27590]) that the Three Mile Island Accident was not an ENO as defined in the Atomic Energy Act and the Commission's regulations.

The petitioners also requested that the Commission make the criteria for determination of an ENO more in line with the intent of Congress. Notice of receipt of the petition and a request for public comment were published in the **Federal Register** on August 28, 1979 (44 FR 50419). One public comment was received regarding the ENO criteria. The commenter, an official of a nuclear utility, believed that the current criteria for determining an ENO are reasonable. The commenter stated that Congress intended that the waiver of defenses be limited to incidents resulting in significant injury or loss and that the current criteria are consistent with this. The commenter also believed that lowering the threshold for an ENO would lead to higher premiums for insurance coverage and could at some point endanger the availability of insurance coverage.

The Commission believes that the existing ENO criteria are consistent with the Atomic Energy Act definition of an ENO. However, based upon the experience during the Three Mile Island ENO determination, the Commission is proposing revised ENO criteria which are more practicable than the present regulation. Because the proposed regulations revise the standards against which an ENO determination will be made, the PCLG–CMEP petition for revised ENO criteria is granted in part.

The Commission believes that none of the proposed criteria will affect insurance premiums. During the 1966 Congressional hearings on the ENO, representatives of the insurance industry testified [4] that experience with claims would be the principal determinant of insurance premiums and that institution of the waivers of defenses would not be expected to have any effect on premiums.

The proposed modifications to the ENO criteria would not have changed the outcome of the ENO decision for the Three Mile Island accident. That accident would not have exceeded the proposed dose criteria or the surface contamination criteria and, consequently, would not have been found to be an ENO under existing or any of the proposed regulations.

Additional Comments of Commissioner Bernthal

Although the proposed criteria for an ENO in Option 1 are improvements to those currently in Part 140, substantial problems remain, problems that would be largely eliminated by the inherent simplicity of Option 3. The basis of Option 3 is the definition of two simple, objective dose measurements that directly satisfy the requirement of Criterion I; i.e., they are a measure of "Substantial Discharge of Radioactive Material or Substantial Radiation Levels Offsite." Moreover, these two measures are sufficiently correlated with "Substantial Damages to Persons Offsite or Property Offsite" (the definition of Criterion II) that there is no need for further considerations in order to satisfy Criterion II. For the special case of release of radionuclides that produce little or no gamma radiation, Option 3 here incorporates, with minor clarifying modifications, the relevant part of the existing rule.

In justifying this approach, it is useful first to consider some of the specific problems in Option 1. Second, the characteristics of damages to people and property must be considered, in order to establish what constitutes "substantial" damages. Finally, analyses which correlate "substantial damages" with the measures of radionuclide release recommended here will be discussed.

Option 1 of the proposed Part 140 rule is evidently complicated, and unnecessarily so. Demonstrating that the criteria for an ENO have been met may be difficult under Option 1, and the proposed rule itself suffers from inconsistences. For example, with reference to:

A. Criterion I (Defined as "Substantial Discharge of Radioactive Material or Substantial Radiation Levels") Part (a):

- In order to "measure" Part (a), one must be able to track two paths: the path of the persons at risk and the path of the plume of radionuclides. It is the intersection of these two paths that will determine the dose to persons, but the two pathways may never be known well enough to make a reliable determination of dose. [Doses cannot be measured after the fact.]
- It is doubtful one would know the compositions of the plume (radioactive cloud) in terms of radionuclides, particle sizes, and chemistry, sufficiently well to rely on them for calculating the critical parameters, i.e., damage to human beings and the dose to specific human organs.
- Since persons must actually be exposed to meet this criterion (e.g., 15 rems (0.15 sieverts) to the thyroid), it is a measure of exposure and possible damage (cf. Criterion II), not a measure of discharge or radiation level. Must people be present before a discharge or radiation level threshold can be established? [This problem is also addressed in the proposed revision to Criterion I(a) found in Option 2, but the problem of identifying the intersection of the two pathways remains.]

B. Criterion I Part (b)(1):

- For nuclear power plants, the breakdown into two alpha-emission groups is unnecessary.
- It is not clear whether *each* of the 100 square meters must be contaminated in excess of those levels in the table, or whether there need only be *some* contamination evident over 100 contiguous square meters. In the latter case, a single localized pocket or object of radioactivity could cause the criteria for an ENO to be met, even though the

[4] Testimony of D.C. Thomas with E.A. Lowie, R. Fisher, L. Senger, W.M. Smith and J.H. Merritt, "Proposed Amendments to Price-Anderson Act Relating to Waiver of Defenses," Hearings before the Joint Committee on Atomic Energy, 89th Congress, June, 1966. Superintendent of Documents, GPO 1966, page 120.

median and modal contamination per square meter might be very low.

C. Criterion II (Defined as "Substantial Damages to Persons Offsite or Property Offsite") Part (1):

• This is the only criterion for substantial radiation damage to persons, and the threshold is very high. Consider, for example, that the exposure of 5,000 people to 80 rads (0.8 grays) each would still fall below the threshold criterion for radiation damage to persons.

• If four persons were exposed to 600 rads each (6 grays) (lethal dose), the criterion would not be met.

D. Criterion II Part (2):

• The valuation itself of taxable property could be time-consuming and cumbersome, and leaves open the question of how one would quickly establish the value of items other than taxable property (e.g., cemeteries, municipal sewer systems, churches). The ENO finding must be made within a reasonable period of time.

E. Criterion II Part (3):

• An "Employment Loss" criterion could act as a disincentive for employees to return to work or for employers to require return to work. In any case, such numbers may in practice be difficult to measure.

F. Criterion II Part (4):

• This criterion depends more on the declaration of a general emergency than on damage to persons. There may well be declarations of general emergencies (with accompanying evacuation) without any release of radionuclides. The criterion could act as an incentive (or disincentive) to declaring a general emergency. There could also be an incentive to stay away from home in order to contribute to the threshold for waiving defenses.

In summary, it seems clear that Option 1 is so flawed as to call into question its practicality and applicability in any realistic circumstance. On the other hand, to demonstrate the suitability of an alternative, Option 3, it is important to establish a realistic definition of "substantial damages" to persons and property, and to relate that definition to a readily measurable radiological release.

Radiological releases from nuclear power plants under accident conditions are expected to fall into two categories: (1) Releases characterized by a mix of particulates, volatiles, and gases; and (2) releases consisting principally of noble gases (Xe, Kr). For the first category, significant contamination of property would very likely be evident and dominant long before direct health effects are determined to be present and would therefore represent a conservative and early indicator of harm.

Literature[1] on the subject suggests a hierarchy of "damage thresholds" that can be reasonably correlated with dose rates in the case of property, and with integrated doses in the case of persons. For example, the literature suggests readily measurable criteria as follows, in order of increasing severity: (1) Damage not requiring decontamination, such as that to milk and crops; (2) damage requiring decontamination; (3) damage requiring interdiction; i.e., physical isolation and exclusion of the public from contaminated areas for an indefinite period of time; (4) early injuries; and finally, (5) early fatalities.

Latent (cancer) fatalities or genetic effects are not included in such a tabulation because neither has a "threshold"; both are normally treated in a probabilistic fashion. Moreover, the incidence of these important latent health effects is characterized by doses well above the threshold for decontamination. The first item (milk and crops), on the other hand, involves relatively low cost damages (e.g., contaminated milk and crops are purchased and disposed of) and having costs that are unambiguous (e.g., the cost of buying milk and disposing of it can be clearly documented). Thus, there is little reason to set the threshold of "significant" damage this low.

On the other hand, costs become much more significant when decontamination becomes necessary. Decontamination may involve repaving roads, putting new roofs on homes, and deep plowing of farm lands and/or soil removal. Such costs very quickly would escalate to many millions of dollars—certainly "significant" as defined in this proposed rule. Costs involved in interdiction are still higher. Thus, a reasonable threshold to establish "significant damages" to property for ENO purposes is that level of damage which requires decontamination.

The remaining question is whether the "decontamination threshold" for significant damage correlates with an easily measurable dose-rate or integrated dose. As a guideline, studies[2] have proposed that decontamination should be required if the integrated dose over 30 years is expected to be greater than about 25 rem (0.25 sieverts). For a representative mix of radionuclides such as that expected to be released in an accident, such an integrated long-term dose would be indicated by 10 millirad/hr (0.10 milligray/hr) measured at 1 meter from the ground surface within a few hours after the release. Dose rates substantially higher than this would require interdiction, and could lead to significant latent and genetic effects and even risk of early injury or death.

Of course, the relation between the damage measures described above and the doses at various offsite locations are a function of variables such as meteorological conditions, plume characterizations, population distribution, and isotopic mixes of radionuclides. Specifically, studies show that:

1. Surface contamination dose rate is a good general dose measure—it correlates well with damage measures.

2. For a wide variation of accident conditions, the postulated decontamination threshold dose rate of 10 millirad/hr (0.10 milligray/hr) covers cases where costs of decontamination would be significant (i.e., at least a few million dollars).

3. For virtually all conceivable accident conditions, the threshold rate of 10 millirad/hr (0.10 milligray/hr) would envelop interdiction and all health effects (cancers, genetic effects and early casualties). The exception is the case of release of noble gases only. This case is addressed in category 2, described below.

4. TMI–2 accident releases resulted in surface contamination dose rates well below the 10 millirad (0.10 milligray/hr) threshold.

5. Accidents characterized by containment building failure (other than basemat melt-through) all are expected to result in peak surface dose rates well above 10 millirad/hr (0.10 milligray/hr).

6. Accidents characterized by no containment building failure all are expected to result in peak surface dose rates well below 10 millirad/hr (0.10 milligray/hr).

For the second category of release, that of only noble gas release, there is no lasting ground contamination and the

[1] a. Food and Drug Administration, Emergency Protective Action Guides, **Federal Register**, Vol 47, # 205, October 22, 1982. [47 FR 47073].

b. U.S. Nuclear Regulatory Commission, "Reactor Safety Study—An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants," WASH-1400 (NUREG–75/014), Appendix 6, October 1975.

c. Recommendations of the International Commission on Radiological Protection, Report # 9, September 1965.

d. Federal Radiation Council Staff Report # 5, 1964, "Background for Development of Radiation Protection Standards."

e. Medical Research Council of Great Britain, 1975, "Criteria for Controlling Radiation Doses to the Public after Accidental Escapes of Radioactive Material," Her Majesty's Stationary Office.

[2] a. Ibid. [2] b.

b. U.S. Nuclear Regulatory Commission, "Overview of the Reactor Safety Study Consequence Model" (NUREG–0340), October 1977.

damage to persons as a consequence of plume exposure dominates. An appropriate threshold dose for damage in this case can be as low as 10 rads (0.10 gray) integrated over 24 hours, since a noble gas plume passage is highly likely to be concluded within a few hours. This dose can be considered substantial since it is twice the value that triggers Protective Action as established by the FDA and the EPA.

Key to the entire approach suggested here is the fact that the proposed threshold surface contamination dose rate can be easily measured and confirmed by NRC shortly after an accident; the integrated dose would be monitored by the network of 40–50 TLD's located at each reactor site. (Needless to say, adequate dosimetry equipment in the vicinity of nuclear power plants is essential.)

For completeness, Criterion (c) has been included to cover the special cases where a radionuclide release might *not* involve significant gamma radiation, but might instead produce surface contamination by alpha and/or beta radiation emitters. Such hypothetical releases will be limited to events that might be associated with transportation of nuclear materials, operation of certain non-power plant reactor facilities, or operation of certain other special production and utilization facilities. Criterion (c) in Option 3 is taken directly from 10 CFR 140.84(b)(2) with minor clarifying modifications. The footnotes in that part of the existing rule have also been omitted because they are subject to misinterpretation and appear to be unnecessary.

In summary, radionuclide releases are sufficiently correlated with expected damage from such releases to establish a causal relationship between Criterion I and "Substantial Damages to Persons Offsite or Property Offsite." Therefore, no Criterion II as such is needed. The expected correlation between Criterion I and "substantial damages" suggests that the advantages to this approach far outweigh the disadvantages.

Paperwork Reduction Act Statement

The proposed rule contains no new information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule could affect NRC licensees of production and utilization facilities and the nuclear liability insurance underwriting pools. The companies that own the production and utilization facilities and the insurance pools do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Part 140 is contemplated.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 is revised to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 140.11(a), 140.12(a), 140.13 and 140.13a are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and § 140.6 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Proposed Amendments—Option #1

1. In § 140.84, paragraph (a) is revised to read as follows:

§ 140.84 Criterion I—Substantial discharge of radioactive material or substantial radiation levels offsite.

* * * * *

(a) The Commission finds that one or more of the persons offsite has been or probably will be exposed to radiation or radioactive materials which would result in estimated doses in excess of any one of the levels in the following table:

TABLE 1.—TOTAL PROJECTED COMMITTED RADIATION DOSE

Organ	Dose (rems)	Dose (sieverts)
Total Body	5	0.05
Thyroid	15	0.15
Bone marrow	5	0.05
Bone (surface or mineral)	15	0.15
Skin	50	0.50
Other organs or tissues	10	0.10

Exposures from the following types of sources of radiation shall be included:

(1) Radiation from sources external to the body;

(2) Radiation material that may be taken into the body from its occurrence in air or water;

(3) Radiation material that may be taken into the body from its occurrence in food or on terrestrial surfaces; and

(4) Radiation from sources internal to the body.

* * * * *

2. Section 140.85 is revised to read as follows:

§ 140.85 Criterion II—Substantial damages to persons offsite or property offsite.

After the Commission finds that an event has satisfied Criterion I, the Commission will determine that the event has resulted or will probably result in subtantial damages to persons offsite or property offsite when any of the following conditions are satisfied:

(a) Five or more people have received a radiation dose equivalent to the whole body or any organ in excess of 100 rads (1 gray) during the course of the accident.

(b) Offsite property having a value of $2,500,000 is contaminated with radioactive materials in excess of the levels in § 140.84(b). The valuation shall be based on market value taking into account the ratio of assessed value/market in each tax assessment jurisdiction.

(c) Employment loss of at least 25,000 person-day had occurred.

(d) Evacuation of at least 100,000 person-days has occurred as a result of an evacuation ordered by a State or local official with the authority to make such an order. For the purpose of this regulation, the evacuation period will end when the evacuation order is rescinded by this or another responsible official and when it is determined that the evacuated area may be reoccupied.

Option #2

1. In Subpart E of 10 CFR Part 140, § 140.84 paragraph (a) is revised to read as follows:

§ 140.84 Criterion I—Substantial discharge of radiocharge material or substantial radiation levels offsite.

* * * * *

(a) The Commission finds that any of the following doses were or could have been received by a person or persons located on or near any site boundary throughout the duration of the accident:

TABLE 1.—TOTAL PROJECTED COMMITTED RADIATION DOSE

Organ	Dose (rems)	Dose (sieverts)
Total Body	5	0.05
Thyroid	15	0.15
Bone marrow	5	0.05
Bone (surface or mineral)	15	0.15
Skin	50	0.50
Other organs or tissues	10	0.10

Exposures from the follwing types of sources of radiation shall be included:

(1) Radiation from sources external to the body;

(2) Radiation material that may be taken into the body from its occurrence in air or water;

(3) Radiation material that may be taken into the body from its occurrence in food or on terrestrial surfaces; and

(4) Radiation from sources internal to the body.

* * * * *

2. Section 140.85 is revised to read as follows:

§ 140.85 Criterion II—Substantial damages to persons offsite or property offsite.

After the Commission finds that an event has satisfied Criterion I, the Commission will determine that the event has resulted or will probably result in substantial damages to persons offsite or property offsite when any of the following conditions are satisfied:

(a) A calculated collective dose of 100,000 person-rem [1,000 person-sieverts] has been delivered within a 50-mile radius during the course of the accident.

(b) Offsite property having a value of $2,500,000 is contaminated with radioactive materials in excess of the levels in § 140.84(b). The valuation shall be based on market value taking into account the ratio of assessed value/market value in each tax assessment jurisdiction.

(c) Employment loss of at least 25,000 person-days has occurred.

(d) Evacuation of at least 100,000 person-days has occurred as a result of an evacuation ordered by a State or local official with the authority to make such an order. For the purpose of this regulation, the evacuation ordered by a State or local official with the authority to make such an order. For the purpose of this regulation, the evacuation period will end when the evacuation order is rescinded by this or another responsible official and when it is determined that the evacuated area may be reoccupied.

Option #3

1. In Subpart E of 10 CFR Part 140: § 140.84 is revised to read as follows:

§ 140.84 Criterion for an Extraordinary Nuclear Occurrence.

The Commission will determine that there has been a substantial release of radiocative material offsite, or that there have been substantial levels of radiation offsite such that substantial injuries or substantial damages have resulted or will probably result when radioactive material is released from its intended place of confinement and, as a result of the event, any of the following conditions is satisfied:

(a) Real and personal property is rendered unfit for its normal use as a result of contamination with radioactive materials at levels which produce gamma exposure rates at 1 meter above the surface equal to or greater than 10 millirads per hour, (0.1 milligray/hr).[1]

(b) The integrated air dose which could be received by an individual, over any 24-hour period exceeds 10 rads (0.1 gray), or

(c) Real and personal property is rendered unfit for its normal use as a result of contamination for each square meter of any 100 square meters (as a minimum) at levels in excess of:

Transuranic Alpha-particle-emitting radionuclides.	0.35 microcuries per square meter (0.013 MBq/m²).*
Non-transuranic alpha-particle emitting radionuclides.	3.5 microcuries per square meter (0.13 MBq/m²).*
Beta-gamma-emitting radionuclides.	4 millirads per hour (0.4 milligray/hr)@ 1 centimeter above the ground.[1]

*Megabecquerel where 1 MBq = 10^6 Bq and 1 becquerel (Bq) is 1 disintegration per second. A curie is 3.7×10^{10} Bq or 34,000 MBq.

[1] Measured to exclude very short-lived radionuclides (those having half-lives less than 1 hour) either by measurement at least 8 hours after the cessation of abnormal releases of radioactive materials or by making multiple measurements and compensating or correcting for the contributions from these short-lived radionuclides.

§ 140.85 [Removed]

2. Section 140.85 is removed.

Dated at Washington, DC this 2nd day of April 1985.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 85-8339 Filed 4-8-85; 8:45 am]

BILLING CODE 7590-01-M

[1] Measured to exclude very short-lived radionuclides (those having half-lives less than 1 hour) either by measurement at least 8 hours after the cessation of abnormal releases of radioactive materials or by making multiple measurements and compensating or correcting for the contributions from these short-lived radionuclides.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 62b

[DoD Directive 1010.7]

Drunk and Drugged Driving by DoD Personnel

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulation on Drunk and Drugged Driving by DoD Personnel. The present regulation requires that the suspension of an individual's driving privilege be vacated if the individual is acquitted, the charges are dismissed, or there is an equivalent disposition. This means that driving privileges must be reinstated when charges are dismissed as a result of plea bargaining, even though there has been a valid blood alcohol content (BAC) test. The proposed change permits continuation of the suspension when the preliminary suspension was based on refusal to take a BAC test or when the preliminary suspension was based on a BAC test.

DATE: Comments: Written comments must be received by May 9, 1985.

ADDRESS: Submit comments to the Office of the Deputy Assistant Secretary of Defense (Professional Affairs and Quality Assurance), the Pentagon, Room 3D200, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: CDR Robert J. Battjes, PHS, telephone (202) 695-7116.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-25194 appearing in the **Federal Register** on September 16, 1983 (48 FR 41581), the Office of the Secretary of Defense published the final rule to which this change pertains.

List of Subjects in 32 CFR Part 62b

Alcohol, Drugs, Highway safety intoxicated driving prevention program, Military and civilian personnel.

PART 625—[AMENDED]

Accordingly, this document proposes to amend 32 CFR Part 62b as follows:

1. The authority citation for Part 62b reads as follows:

Authority: 10 U.S.C. 131.

2. Section 62b.4(b)(2)(ii) is amended by inserting "military administrative

determination," after "nonjudicial punishment,"

3. Section 62b.4(2)(v) is revised to read as follows:

§ 625.4 Procedures.

* * * * *

(b) * * *

(2) * * *

(v) When there is an official report that there has been a finding of not guilty, the charges have been dismissed or reduced to an offense not amounting to intoxicated driving, or there has been an equivalent determination in a non-judicial punishment proceeding or military or civilian administrative action, the suspension shall be vacated except as follows:

(A) If the preliminary suspension was based upon refusal to take a blood alcohol content (BAC) test, the matter shall be processed under paragraph § 62b.4(b)(3) below.

(B) If the preliminary suspension was based on a BAC test, the suspension shall be continued pending completion of a hearing unless disposition of the charges was based on invalidity of the BAC test. The individual shall be notified in writing of the continuation of the preliminary suspension and of the opportunity to request a hearing within 10 working days. If the individual requests a hearing to vacate the preliminary suspension, it shall be held within 10 working days of the request. The hearing shall be conducted in accordance with the provision of subparagraph § 62b.4(b)(1)(iv), above. The hearing shall consider the arrest report, the report of the official disposition, other official documentation, information presented by the individual, and such other information as the hearing officer may deem appropriate. If the hearing officer determines by a preponderance of the evidence that the individual was engaged in intoxicated driving, the suspension shall be for 1 year from the date of the original preliminary suspension. If not, the preliminary suspension shall be vacated. If the individual does not request a hearing within 10 working days, the suspension shall be for 1 year.

April 4, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-8427 Filed 4-8-85; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 220, 227, 228 and 234

[OW-9-FRL 2815-1]

Ocean Incineration Regulations; Public Hearing Location Change

AGENCY: Environmental Protection Agency.

ACTION: Change in location of public hearing.

SUMMARY: In the Federal Register of March 14, 1985 (50 FR 10252), the EPA announced a series of public hearings to facilitate comments on proposed ocean incineration regulations published on February 28, 1985 (50 FR 8222). This action changes the location of the San Francisco, California hearing scheduled for April 30, 1985.

ADDRESS: The new location of the San Francisco public hearing scheduled for April 30, 1985, will be: Cathedral Hill Hotel, Japanese Pavillion (4th Floor), VanNess at Geary Street, San Francisco, California 94109.

FOR FURTHER INFORMATION CONTACT: Ed Johnson at 202-382-5460.

Dated: April 2, 1985.

Henry Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 85-8429 Filed 4-8-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 85-87; FCC 85-144]

Preemption of Local Zoning Regulations of Receive-Only Satellite Earth Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a rule which would preempt state and local zoning regulations which discriminate against satellite receive-only antennas in favor of other communications facilities unless they have a direct and tangible relationship to valid, reasonable, demonstrable and clearly articulated health, safety or aesthetic objectives and constitute the least restrictive method available to accomplish such objectives. This action was taken in light of evidence presented in a proceeding initiated by a petition for declaratory ruling that indicated local regulations may be interfering with federal objectives in providing for the growth of nationwide satellite delivered communications services.

DATES: Comments may be filed on or before May 8, 1985 and reply comments on or before May 23, 1985.

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

FOR FURTHER INFORMATION CONTACT: Rosalee C. Gorman, Satellite Radio Branch, (202) 643-1781.

Notice of Proposed Rulemaking

In the matter of preemption of local zoning regulations of Receive-Only Satellite Earth Stations (CC Docket No. 85-87).

Adopted: March 28, 1985.

Released: April 1, 1985.

By the Commission: Commissioner Dawson issuing a separate statement.

I. Introduction

1. The Commission has before it a petition filed by United Satellite Communications, Inc. (USCI) requesting, pursuant to Section 1.2 of the Commission's rules, 47 CFR 1.2, a Declaratory Ruling preempting local zoning regulation of satellite receive-only earth stations. Oppositions and comments have been received from various parties.[1] Because the nature of the preemption requested in this proceeding deals with matters of significant local concern and because of the limited record compiled thus far, we have determined that the most appropriate way to respond to USCI's petition is to issue a Notice of Proposed Rulemaking pursuant to Section 1.411 of the Commission's rules, 47 CFR 1.411. The purpose of this notice is to propose the following rule:

State and local zoning or other regulations that discriminate against satellite receive-only antennas in favor of other communications facilities are preempted unless they have a direct and tangible relationship to reasonable, valid, demonstrable and clearly articulated health, safety or aesthetic objectives and constitute the least restrictive method available to accomplish such objectives.

We solicit public comment on this proposal as described in greater detail herein.

[1] American Radio Relay League (League) has filed a similar request for a ruling preempting zoning regulations of amateur radio towers. Although the League requested consolidation of its petition with the USCI matter (USCI opposes consolidation), we have elected to consider these petitions separately. Those concerns raised by Amateur Radio operators will be addressed in our future action on that request in the proceeding entitled PRB-1.

II. Background

A. USCI Petition

2. In its petition for a declaratory ruling, USCI has requested the Commission to issue what it terms a limited preemption of state and local regulations when such regulations—

(1) Lack a direct and tangible relationship to legitimate and neutral zoning or public health and safety considerations,

(2) Interpose requirements that frustrate the reception of satellite-transmitted signals, and

(3) Are contradictory to the preeminent federal interests in establishing and fostering interstate satellite program delivery services to the public.

3. The petition cites a Chicago ordinance as an example of an unacceptable zoning regulation. This law requires that an application for a construction permit for a satellite receiving station be processed as a "planned development," subjecting it to the review of three governmental agencies and a public hearing and requiring a $100.00 application fee. USCI also alleges that Chicago's ordinance was enacted for the purpose of protecting the cable industry in the city and refers to statements made to that effect by a city council member in the course of hearings on the ordinance.

B. Comments/Issues Raised

4. Initial comments and reply comments have been received in response to the USCI petition. In general, satellite industry representatives responded in favor of Commission preemption and stressed the necessity for access to antenna facilities. Local government representatives opposed preemption stating that it was unnecessary and an unwarranted federal interference in traditionally local concerns.

5. Satellite Television Industry Association, Inc. ["SPACE"] supported Commission preemption of "unreasonable" zoning restrictions "which interfere with the expansion of home satellite antennas." [2] Attached to SPACE's comments are copies of other ordinances which it claims are examples of unreasonable satellite regulations and which apply zoning restrictions to the construction of antennas. Many of these relate to antenna size and bar the use of all but the smallest antenna (*e.g.*, one meter). Others require set backs or screening, installation only in certain areas or yard locations, high application fees or expensive engineering data, or consent by all affected neighbors in a residential area. SPACE argues that there should be no diameter restrictions permitted although local governments have the power to regulate for health and safety reasons, and little aesthetic regulation should be permitted. It also urges that any size considerations should be based on 4/6 GHz equipment instead of DBS antennas [3] because, according to SPACE, the future of the latter service is uncertain. [4]

6. Other supporting comments suggest similar or broader preemptive action. American Satellite suggests extending preemption to all local regulations which create obstacles for earth station installations. M/A-Com, Inc. asserts that a Commission order should state that local zoning must not discriminate between services, and that size of the antenna is an appropriate criteria for judging the reasonableness of regulations. RCA American Communications, Inc. states that preemption is consistent with prior Commission rulings and urges preemption of regulations which restrict the delivery of satellite services to the public. Equatorial Communication Services and Contemporary Communications Group urge preemption of all uses of earth stations whether industrial or residential, for video or data services, and Atlantic Satellite Communications, Inc. requests preemption of regulation of transmit facilities. Direct Broadcast Satellite Television Association, and Direct Broadcast Satellite Corp. voice concerns regarding the effect of restrictive and burdensome regulations on the development of direct broadcast services. Satellite Television Corp. (STC) argues that the Commission can rationally distinguish between smaller DBS facilities and larger satellite antennas "commonly know as 'back yard earth stations' " which it claims are not intended for direct reception of signals and are thus not an integral part of a telecommunications network. [5]

7. State and local government representatives oppose preemption. New York City states that federal preemption will result in burdening the courts or the Commission with the consideration of all local ordinances, that preemption cannot be justified on this record because there is no evidence of restriction of satellite delivered services, and that there are adequate local remedies available as alternatives to preemption. The American Planning Association stresses the upholding by state courts of aesthetic zoning regulation and the availability of other remedies, and states that in preempting the Commission would be substituting its own judgment for that of local legislatures. The National League of Cities argues against preemption because (1) it would be an improper exercise of federal jurisdiction, (2) the Commission does not have the power to preempt, (3) national and local interests can be accommodated without preemption and (4) preemption would impose burdens on the Commission and on local governments. The National Association of Counties stresses the strong local interest in the exercise of police power. The North Area Cable Television Authority opposes preemption on the basis of its assertion that zoning matters are appropriately regulated by the state.

III. Discussion

8. This proceeding addresses two primary questions. Initially it must be determined if this Commission has the authority to preempt any zoning regulation. If so, it then must be determined what type of restrictions should be preempted. Finally, we must consider how to implement any preemption that might be adopted. Despite the strong and traditionally local nature of zoning power, it is our tentative conclusion that the Commission does have the authority to preempt zoning regulations when they act as obstacles to the federal objective to promote the growth of satellite delivered services. We do not propose to rule on individual ordinances. Instead, we believe announcing general policy for use by state and local officials will be sufficient to ensure that federal objectives are not frustrated

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[2] SPACE's pleading was titled "Petition for Declaratory Ruling and Comments." It is being considered as comments herein. USCI opposes consolidation with SPACE's petition, but the nature of the issues raised and relief sought by both parties support considering this pleading as comments herein.

[3] Because of technological differences, antennas used in Direct Broadcast Service (DBS) can be much smaller than the typical "home earth station" designed to receive programming transmitted in the 4/6 GHz frequency band.

[4] Both SPACE and M/A-Com, Inc. cited a large increase in the number of home earth stations in use as evidence of the economic strength of the home earth station market.

[5] USCI in reply comments agrees with this assertion and Atlantic Satellite Communications, Inc. objects because such a standard would be discriminatory and would create a "natural monopoly" for DBS services.

A. The Commission's Preemption Authority

9. Federal preemptive power may be exercised when:

(1) Congress has expressed a clear intent to preempt state law;

(2) Congress has legislated comprehensively to occupy an entire field of regulation; or

(3) Compliance with both state and federal law is impossible or the state regulation stands as an obstacle to the accomplishment of congressional purpose.[6]

10. This Commission has licensed carriers to provide domestic satellite service across the United States. Various types of businesses transmit their products and programming over these satellites and without satellite antennas to receive these transmissions, the services are useless.[7] In addition, recent amendments to the Commissions Act, 47 U.S.C. 705, provide that unless the sender has established a marketing system an individual using a satellite antenna at his dwelling may freely receive unscrambled satellite cable programming without incurring liability for unauthorized interception. This provision implicitly encourages entities transmitting unscrambled programming over satellites to set up public marketing systems which sell programming to the public. In enacting this legislation, Congress wished to ensure that Americans who did not have access to cable programming would be able to obtain such programming.[8] Individuals cannot take advantage of such marketing systems if they cannot set up receiving antennas with a minimal amount of interference from the state and local governments. Thus, excessive state and local regulation of satellite antennas interferes with a conditional right to receive programming via home earth stations. When state regulations are unreasonably interfering with or frustrating this right or the provisions of the Commissions Act or Commission rules, as described above, preemption is warranted.[9]

11. This Commission has preempted state regulation that interfered with or impeded the distribution of interstate communications. For example, we preempted state regulation that sought to classify as cable systems Master Antenna Television Systems carrying Multi-Point Distribution Service (MDS) transmitted programming. In that case, after noting that these services were interstate in nature,[10] we found that the state's attempt to regulate presented an obstacle to the accomplishment of Congressional objectives in promoting interstate commerce.[11]

12. In a recent order in *Earth Station Satellite Communications, Inc.*,[12] we preempted a state's attempt to apply cable regulations to Satellite Master Antenna Television Systems (SMATV). We emphasized the importance of a free market development of satellite delivered communications stating "it is clear that local prior approval requirements are inconsistent with national policies in these areas."[13] The opinion noted that the state certification requirement in question would result in delay or termination of service to the public.[14] The order left open the possibility of some local regulation of SMATV service such as zoning or safety requirements provided they did not interfere with or inhibit interstate transmissions.

13. On reconsideration, we affirmed the decision to preempt but declined to extend our order to grant a SPACE request to preempt local zoning ordinances that interfere with the erection of receive-only earth stations on residential property. We stated that the scope of the initial proceeding did not include review of zoning regulations and that petitioners should raise this issue in a separate proceeding "if they can show that local jurisdictions are deliberately 'zoning out' communications equipment for purposes of restricting national communications systems rather than for clearly acceptable purposes of local concern."[15]

14. On appeal, the Court of Appeals found that its review was limited to two issues, namely whether the Commission had authority to preempt and whether this authority was exercised reasonably. It affirmed the Commission concluding that preemption was consistent with prior Commission policy and was a " 'reasonable accommodation of conflicting policies that are within the agency's domain.' "[16] Distinguishing the SMATV services involved from traditional cable services because the latter involved the use of public rights of way and was thus subject to local control, the Court noted that this Commission has retained exclusive control over the licensing of satellites. The Court found that this Commission acted reasonably in the exercise of our authority to preempt.[17]

B. Nature of Local Regulation

15. Although the proper focus in a preemption action is not the relative importance to the states of their own laws,[18] it is incumbent on this Commission to take note of the traditionally local character of zoning regulation.[19] The parties filing comments opposing USCI's request have stressed this. They have also asserted that the Commission lacks authority to regulate local zoning matters and have raised the question of its ability to act as a "super zoning board" in reviewing the reasonableness of local regulations. Opponents have cited the fact that alternative remedies exist to individuals wishing to challenge actions taken pursuant to local zoning powers.

16. We recognize the strong local interest in zoning regulation. Such regulation has been upheld as a valid exercise of state police power where it is reasonable and bears a rational relationship to permissible state objectives such as preservation of the community's health and safety.[20] Even

[6] Capital Cities Cable, Inc. v. Crisp, 104 S. Ct. 2694 (1984). *See also* Michigan Canners and Freezers Association, Inc. v. Agricultural Marketing and Bargaining Board, 104 S. Ct. 2518 (1984); Florida Avocado Growers v. Paul, 373 U.S. 132 (1963); Hines v. Davidowitz, 312 U.S. 52 (1941).

[7] *See* Earth Satellite Communications, Inc., 95 FCC 2d 1223, 1232 (1983).

[8] *See* 130 Cong. Rec. H10439, H10443 (remarks of Representatives Wirth and Gore, respectively).

[9] Fidelity Federal Savings and Loan Assoc. v. De La Cuesta, 458 U.S. 141 (1982); Hines v. Davidowitz, 312 U.S. 52 (1941). *See* Virginia State Corporation Commission v. FCC, 737 F.2d 388 (4th Cir. 1984).

[10] The Commission pointed out that the station involved was part of a national network interconnected by a domestic communications satellite and that non-federal limitation of receive points could hamper interstate development of the service. In the Master of Orth-O-Vision, Inc., 69 FCC 2d 657, 660, 669 (1978), *aff'd sub nom.*, New York State Commission of Cable Television v. FCC, 669 F.2d 56 (2d Cir. 1982).

[11] 69 FCC 2d at 669. This preemption was upheld on review. New York State Commission on Cable TV v. FCC, *supra* note 10.

[12] 95 FCC 2d 1223, *recon. denied*, FCC 84-206, *aff'd sub. nom.* New York State Commission on Cable Television v. FCC, 749 F.2d 804 (D.C. Cir. 1984).

[13] *Id.* at 1232. The Commission cited In Re Regulation of Domestic Receive-Only Satellite Earth Stations, 74 FCC 2d 205 (1979), for the proposition that it favored the least regulation possible, consistent with satellite policies, in respect to earth station ownership.

[14] *Id.* at 1234.

[15] Earth Satellite Communications, Inc., FCC 84-206 at 3 (May 14, 1984).

[16] New York State Commission on Cable Television v. FCC, 749 F.2d 804, 806 (D.C. Cir. 1984) *citing* Crisp, 104 S.Ct. at 2101.

[17] *Id.* at 812-15. In this case the petitioners argued that preemption was contrary to the federal policy as opposed to preemption proponents in the USCI proceeding who assert that state policy conflicts with federal goals. Id. at 808.

[18] Free v. Bland, 396 U.S. 663 (1962). *See also*, Fidelity Federal Savings and Loan Assoc. v. De La Cuesta, 458 U.S. 141 (1982).

[19] *See* Columbia Plaza Ltd. Partnership v. Cowles, 402 F.Supp. 1337 (D.D.C. 1975).

[20] Village of Belle Terre v. Borass, 416 U.S. 1 (1974); Village of Euclid v. Ambler Realty, Co., 272 U.S. 365 (1926).

the promotion of purely aesthetic community values has been upheld under certain circumstances.[21] In addition, this Commission does not wish to assume the position of a national zoning board or substitute its judgment for that the local authorities by reviewing a myriad of individual zoning decisions. However, we do believe that the record established thus for indicates an existing problem and that it is within our authority to issue guidelines to insure that federal communications objectives are not frustrated.

C. Frustration of Federal Objectives by State Zoning Regulations

17. The purpose of this notice is to propose a preemption policy that recognizes local interests while insuring that federal policies are not frustrated. We seek to compile a record on the accuracy of our analysis of the problem, the interests involved, and the efficacy of our solution. The Chicago ordinance cited by USCI appears to be the type of local regulation which would be subject to preemption under our proposed ruling.[22]

18. The Chicago ordinance specifically exempts amateur radio towers and does not appear to apply to conventional home television antennas while it specifically subjects satellite receiving equipment to its rigorous provisions. The ordinance seems to single out satellite antennas because of their status, and not because of health and safety concerns regarding antennas in general such as windloading regulations. Nor does it apply clearly articulated aesthetic criteria such as screening or offset requirements. Thus, there appears to be no reasonable health and safety or aesthetic basis for the distinction in the city's ordinance.

19. The Chicago ordinance also imposes significant burdens on an individual attempting to obtain a construction permit for a single antenna. These include a $100 non-refundable application fee, a review by three separate city agencies and a public hearing, the same procedure that would be applied to an application to construct an airport, a hospital, or a large residential subdivision. These restrictions appear to go beyond those necessary to assure the legitimate health, safety or aesthetic values of the community.

20. USCI has submitted as part of this record transcripts of city council hearings regarding this ordinance. These transcripts indicate that at least one Council member who voted for the ordinance believed that its purpose was to protect the cable franchise in that city. We do not believe that regulations intended to afford a competitive advantage to one type of communications service to the disadvantage of another are in accord with our policies of providing for growth of all national communications facilities.

21. Despite these tentative conclusions regarding the Chicago ordinance, we recognize that this Commission should not unduly interfere with the legitimate affairs of local governments when they do not frustrate federal objectives. Communites have the right to maintain a certain quality of life for their citizens with respect both to their health and safety and to the aesthetic quality of the locality. Any final order preempting local zoning must be carefully and narrowly drawn and give effective guidance to the communities in carrying out their land use planning power. The following discussion addresses the various proposed preemption standards.

D. Proposed Rule

22. Neither USCI nor the other supporting parties advocate a total preemption of all local zoning regulations of satellite antennas. We agree that a complete preemption in this case would be an unwarranted federal intrusion into legitimate state and local matters. Thus, if we determine that a limited preemption is appropriate, a clear set of guidelines must be formulated in order to give state and local governments notice of the extent of their permissible power to regulate. We encourage parties to comment in this regard.

1. Size Consideration

23. These parties commenting in this proceeding have made several suggestions as to the nature of an appropriate limited preemption. One such suggestion is that the Commission establish a criteria based on the size of the proposed antennas. For example, M/A-Com, Inc. has proposed a limit of ten feet in residential areas and 12 feet in commercial areas below which local regulation would not be permitted absent a strong demonstration of the necessity for greater restriction by the local government. M/A-Com, Inc. indicates that this standard would draw the "clear bright line" needed to give guidance to local communities and to avoid the possibility of Commission review of numerous local ordinances. M/A-Com, Inc. also emphasizes that any local regulation must be non-discriminatory as to antenna type. STC argues that an order distinguishing between DBS antennas and home earth stations would be appropriate.[23] SPACE, on the other hand, urges the preemption of all local diameter restrictions.[24]

24. Antenna size may be a relevant factor in achieving safety and aesthetic objectives. Smaller antennas would seem to present less local concern from both aesthetic and safety points of view. It thus may be possible to establish certain presumptions related to size which would be based on the lack of strong local interest in regulating smaller facilities. However, because one of our main objectives in our proposed preemption order is to eliminate arbitrary governmental discrimination among communication facilities, we would be reluctant to promulgate a rule which might have the effect of promoting such discrimination. In addition, antenna size varies depending on usage and rapidly changing technology will affect any technical basis for a size distinction. We have thus not included size considerations as a regulatory criteria. However, we encourage parties advocating this approach to submit evidence supporting their position for consideration in our final decision.

2. Aesthetics

25. Another suggested approach to a preemption ruling is that the Commission ban all local zoning regulations enacted for aesthetic purposes. SPACE and Channel One, Inc. advocate this suggestion.

26. We have rejected this proposal because we believe that a local community has a strong legitimate interest in regulating for aesthetic purposes as long as that regulatory action is taken on a neutral basis without an unreasonably discriminatory effect. As previously discussed herein, local communities have the right to enact ordinances which will protect the aesthetic values of citizens and this Commission should not interfere with this right provided that federal objectives are not being frustrated. Thus, we feel that ordinances requiring

[21] City Council of Los Angeles v. Taxpayers for Vincent, 104 S.Ct. 2118 (1984). The Court has required careful scrutiny of the breadth of such local restrictions on first amendment rights, however, and has refused to uphold ordinances based on aesthetic values which go beyond valid time, place and manner speech restrictions and which fail to leave open alternate channels for expression of the restricted communications. Metromedia, Inc. v. City of San Diego, 453 U.S. 490 (1981). *See also* Schad v. Borough of Mt. Ephraim, 452 U.S. 61 (1981); Erzoznick v. City of Jacksonville, 422 U.S. 205 (1975).

[22] We have also considered the local ordinances submitted by SPACE and although we will not review them in detail, we conclude that some would be preempted by our proposed rule.

[23] *See* para. 6.

[24] *See* para. 5.

certain types of screening or placement should be permissable when applied in a proper context and on an equitable basis to all facilities. Again, however, we encourage commenters to offer evidence regarding this issue.

3. Extension to Other Antenna Uses

27. Other commenting parties have urged expansion of a preemption ruling to antennas other than receive-only antennas used in residential areas for video reception.[25] It is our intention to direct our proposed rule to receive-only satellite earth stations without regard to usage. We believe that there are additional considerations or determinations that must be made with respect to transmitting antennas that are being addressed in other proceedings and that would unduly broaden the scope of the proposals made herein.[26] Although we would accept comments on this issue, our present intention is to limit consideration to receive-only antennas.

4. USCI's Proposal

28. Another option before the Commission is the specific one proposed by USCI.[27] The proposed language does not directly deal with ordinances which unreasonably discriminate against satellite facilities in favor of other communications facilities.[28] An example of this is the Chicago ordinance which exempts amateur radio towers and does not appear to apply to UHF or VHF television antennas. In addition, USCI's language would need future Commission clarification and could engender further Commission involvement.[29] Therefore, we do not believe USCI's proposal is the appropriate standard.

5. Rule Proposed Herein

29. We feel that the rule proposed herein is sufficiently concrete and addresses some specific areas not included in the USCI request. In particular, it prohibits unreasonable governmental discrimination among antenna facilities. At the same time, the proposal clearly protects legitimate interests in regulating health, safety and aesthetic values of local communities.

30. The proposed rule accommodates both the federal interest in the Commission's open entry satellite policies and local interests in providing reasonable zoning protection for residents. This proposal is offered in response to evidence presented which indicates that local zoning regulation may be unreasonably interfering with the installation of satellite antennas, thus creating an obstacle to the federal goal of providing for the expansion of satellite delivered services. The Commission has made an initial determination that a limited preemption may well be warranted. Our proposed rule is designed to provide general guidance to individual antenna users and to local communities. It is not our intention to act as a national zoning board or to review individual ordinances. The rule would prevent communities from exercising their zoning power to discriminate against satellite receive-only antennas. It also leaves with local governments full authority to enact reasonable and neutral regulations which would protect the legitimate health, safety and aesthetic concerns of citizens. It thus accomodates both state and federal interests and fulfills the mandate of this Commission to ensure the growth of effective interstate communications.

IV. Conclusion

31. Authority for this proposed rulemaking is contained in Sections 151, 303, 403 and 705 of the Communications Act of 1934, as amended.

32. The major objective of this proceeding is to propose a policy implementing the Commission's preemption of local zoning regulation which discriminates against satellite antennas and which is not related to valid health, safety or aesthetic regulation and is not the least restrictive method of accomplishing such regulation.

33. Comments on all aspects of the proposed ruling are encouraged , but commenters should avoid merely repeating comments already submitted.

34. As required by Section 603 of the Regulatory Flexibility Act, we have prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. Any such comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis.

35. For the purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that subtantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or member of the Commission's staff that addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of the presentation to the Commission Secretary for inclusion in the public files. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comment by the proceeding must prepare a written summary of that presentation. On the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number that proceeding to which it relates. *See generally* § 1.1231 of the rules, 47 CFR 1.1231.

36. Accordingly, it is ordered that interested parties may file comments according to an expedited schedule pursuant to § 1.425 of the Commission's rules on or before May 8, 1985 and reply comments on or before May 23, 1985. In addition to consideration of all relevant and timely comments, the Commission may take into consideration information not contained in the comments provided that evidence of the existence of such information including its nature and sources is placed in the public record and provided that the fact of the Commission reliance on such information is noted in any order taking final action in this matter.

37. It is further ordered that pursuant to § 1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs or other documents shall be filed with the Commission. Copies of all findings will be available for public inspection during

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[25] *See, e.g.*, Comments of Atlantic Satellite, Equatorial and American Satellite.

[26] *See e.g.*, Gen. Docket No. 79-144 in which the Commission is considering amending its rules to include the authorization and licensing of transmitting equipment emitting excessive microwave radiation as "major actions" subject to the Commission's environmental processing standards. In addition, PRB-1, *supra* note 1, will address the preemption request filed by the American Radio Relay League.

[27] *See* para. 2, *supra*.

[28] *See* Comments filed by Satellite Television Corp.

[29] *See* Comments filed by M/A-Com, Inc.

regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

38. It is further ordered that the Chief, Common Carrier Bureau, has delegated authority to require the submission of additional information, make further inquiries and modify the dates and procedures if necessary to provide for a fuller record and more efficient proceeding.

39. It is further ordered that the Secretary shall cause this Notice of Proposed Rulemaking and the attached Initial Regulatory Flexibility Analysis to be published in the **Federal Register.**

40. It is further ordered that the Secretary shall cause a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief, Counsel for Advocacy of the Small Business Administration in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 50 U.S.C. et seq.)

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Initial Regulatory Flexibility Analysis

I. Reason for Action

In this proceeding the Commission seeks to develop a record and to elicit comments on a proposed rule preempting certain local zoning regulations of satellite receive-only earth stations. This action is taken in response to a petition for declaratory ruling and associated comments which indicate the possibility that local zoning restrictions may be frustrating the Commission's objective to promote the expansion of satellite services in the public interest.

II. Objective

The Commission's objective in proposing this rule is to ensure that local zoning regulations do not act as an obstacle to the accomplishment of federal communications objectives.

III. Legal Basis

The legal basis for this action is found in 47 U.S.C. 151, 303, 403 and 705.

IV. Small Entities Affected by the Proposed Rule

The proposed rule will have an effect on local government jurisdictions of all sizes as it may impose some limits on their power to enact zoning legislation related to satellite receive-only antennas. Small businesses selling receive-only antennas also may be affected in that their ability to do business in a competitive market may be enhanced by preemption. In addition, the ruling would afford guidance to local jurisdictions and to individual citizens regarding the acceptable limits of local governmental action.

V. Recording, Recordkeeping and Other Compliance Requirements

This action will not create any new reporting or record-keeping requirements.

VI. Federal Rules which Overlap, Duplicate or Conflict With the Proposed Rule

There is no overlap, duplication or conflict.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives

Because there appears to be a significant conflict between some local zoning regulations and the use of satellite receive-only facilities, the only effective alternative appears to be a limited preemption by the Commission. Failure to do so may lead to restrictive zoning regulations limiting the ability of small businesses to sell receive-only earth station equipment in competition with other transmission media. A federal statement of preemption criteria may reduce uncertainty in the areas for both local governments and small businesses and individuals reducing unnecessary litigation.

Separate Statement of Commissioner Mimi Weyforth Dawson

My preference with regard to the Commission's preemption authority would not be to initiate a potentially time-consuming rulemaking proceeding to inquire into the Commission's jurisdiction. I think that the record before us is more than adequate, and I am not sure what another round of comments will gain other than a delay in the ultimate resolution of the issues raised in the subject request for declaratory ruling. Moreover, I do not view the procedure chosen by the Commission in this particular instance as indicating that a notice-and-comment rulemaking is a legal predicate to a decision regarding the Commission's ability to preempt local regulation which has the effect of thwarting federal policy.

However, given the relatively brief comment period allowed in this proceeding as well as the Bureau's commitment for expeditious treatment of this docket, I am willing to support a notice of proposed rulemaking.

In addition, in the comments which are filed in this proceeding, I will be particularly interested as to whether the Commission's proposed preemption should include a similar provision to that contained in Section 3 of S.R. 35, recently introduced by Senator Goldwater. It seems to me that the Commission may well be interested in clearly preempting local restrictions which are intended to or do in fact "protect from competition or . . . provide a competitive advantage to any [non-satellite] means" of delivery or reception.

[FR Doc. 85-8440 Filed 4-8-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Ch. I

[CC Docket No. 79-105; FCC 85-148]

Detariffing the Installation and Maintenance of Inside Wiring.

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The Commission is proposing to detariff the installation and maintenance of inside wiring. In addition, the Commission is proposing that the ownership title to inside wiring should pass to the customer and/or owner of the premises once the telephone companies have fully amortized their inside wiring costs.

These proposals are being made to further the Commission's objective of insuring that the costs associated with inside wiring are borne by the cost causative customer. The detariffing of simple inside wiring will also enable others such as electricians to install and maintain inside wiring on a competitive basis with the telephone companies.

DATES: Comments shall be filed by May 13, 1985. Reply comments due on or before May 28, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Accounting and Audits Division, Common Carrier Bureau (202) 634-1861.

SUPPLEMENTARY INFORMATION:

Further Notice of Proposed Rulemaking

In the matter of detariffing the installation and maintenance of inside wiring; CC Docket No. 79-105, FCC 85-148.

Adopted: March 28, 1985.

Released: April 5, 1985.

By the Commission:

I. Introduction

1. In this *Further Notice of Proposed Rulemaking (Further Notice)*, we are proposing to detariff the installation of simple inside wiring and to detariff the maintenance of all inside wiring [1] (both simple and complex).[2] In addition, we are proposing that the telephone companies relinquish all claims to ownership of the inside wiring when their inside wiring costs have been fully amortized, that is, when the companies have a zero net investment in inside wiring.

2. We are proposing these changes to increase competition, to promote new entry into the market, to produce cost saving which would be passed on to the ratepayers, and to further the Commission's objective to create, to the maximum extent possible, an unregulated competitive marketplace environment for the development of telecommunications. We are also proposing these changes to ensure that the cost of inside wiring is borne by the cost causative customer.

II. Background

3. On March 31, 1981, the Commission released its *First Report and Order* in CC Docket 79–105, *Expensing of Inside Wiring*, 85 FCC 2d 818 (1981), in which it amended Part 31 of the Commission's Rules and Regulations (Uniform System of Accounts for Class A and Class B Telephone Compnies) by ordering all subject carriers to separate their investment in inside wiring into at least two subclasses, "station connections-inside wiring" and "station connections-others".[3] Station connections-inside wiring was defined as that segment of the wiring from the customer's side of the protector to the customer premises equipment. We also ordered that future inside wiring costs be charged directly to expense [4] and that embedded investment in insidewiring be amortized over a ten year period.[5]

4. These accounting changes were continuations of the Commission's efforts to ensure that the burden of costs associated with station connections are borne by the ratepayer who cause the costs to be incurred. Because these accounting changes merely reclassified the inside wiring from capital accounts to expense accounts, however, they did not assure that inside wiring costs would be borne by the cost causative customers. Because it did not appear possible to achieve fully the objective of charging the cost of inside wiring to the cost causative customer in a regulated environment solely by accounting means, the Commission instituted a *Further Notice of Inquiry (FNOI)* in CC Docket 79–105, 86 FCC 885 (1981), to search for other avenues to achieve this objective.

5. Respondents to the FNOI recommended that the Commission split inside wiring into simple and complex. Generally, it was argued that complex inside wiring could be detariffed but simple inside wiring could not because there were no alternative sources available for the provision of simple inside wiring, particularly in rural areas. Accordingly, the Commission addressed complex wiring in CC Docket 82–681, *supra* note 2, and left all questions relative to simple wiring to later orders. In CC Docket 82–681, the Commission established the intrasystem concept and detariffed all newly installed intrasystem wiring (also called complex wiring). Simple inside wiring was addressed to some degree in CC Docket 81–216, *Amendment of Part 68*, 97 FCC 2d 527, p. 543 (1984), wherein customers were given additional options, e.g., customers were permitted to augment existing non-system wiring (also called simple wiring) without going to the telephone company. However, simple inside wiring was not deregulated and remained subject to tariff if provided by the telephone company. The Commisssion did not order the sale of the embedded simple inside wiring but it did in Docket 79–105, *Expensing of Inside Wiring*, 85 FCC 2d 818 (1981), approve the sale of embedded inside wiring by the telephone companies to the extent authorized by state commission.

III. Discussion

6. In the actions this Commission has taken to date our primary concern has been to try to ensure that the general body of ratepayers is not paying for the costs of installing and maintaining inside wiring. The changes we have established so far for the treatment of inside wiring have not been completely successful in making the cost causative customer bear these costs. Also, we have not made any provisions for the ownership of inside wiring once it has been fully amortized. Our proposals now deal with the unresolved problems related to the installation, maintenance and ownership of inside wiring.

7. *Installation of Inside Wiring*—Currently, new simple inside wiring installed by telephone companies is provided under tariff and the costs of installation are recorded in expense account 605, "Installation and repairs of station equipment". This accounting treatment places part of the burden of installation costs on the general body of ratepayers in two ways. First, under current jurisdictional separations procedures, 47 CFR 67.315, approximately 28% (the industry wide average for the Subscriber Plant Factor (SPF)) of the expenses recorded in account 605 are assigned to the interstate jurisdiction for recovery from interstate ratepayers. Today, for example, AT&T, an interexchange carrier, pays approximately $470 million in installation and maintenance costs to the local telephone companies for its share of these costs. AT&T recoups these costs from its interstate ratepayers. The remainder of the expenses of inside wiring are assigned to the intrastate jurisdiction by the separations process and are collected by the exchange carriers from their customers through intrastate tariffs. Second, to the extent that the state tariff for the intrastate portion of the

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[1] The term "inside wiring" refers generally to that portion of telephone plant, including both labor and materials, accounted for in Account 232, "Station Connections," which is installed on the station apparatus side of the demarcation point set forth in our First Report and Order in CC Docket No. 81–216, *Amendment of Part 68*, 97 FCC 2d 527 (1984).

[2] The Commission defines complex wiring as intrasystem wiring which includes all cable and wire and its associated components (e.g., connecting blocks, terminal boxes, conduit between buildings on the same customer's premises, etc.) which connect station components to one another or to the common equipment of a PBX or a key system. *See* modification to the Uniform System of Accounts, CC Docket No. 82–681, FCC 83–457, 48 Fed. Reg. 50534(1983), Appendix p.8. *See also* Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services, 95 FCC 2d 1276 (1983), at paras. 163–75. Simple inside wiring is any inside wiring other than complex wiring.

[3] "Station connections-other" was defined as the drop, block and protector. In the Report and Order in Docket 82–679, Amendment of Part 31, FCC 83–456, released October 26, 1983, the Commission revised Part 31 to transfer the existing drop and block investment from Account 232 Subclass "Station connections-other" to account 242:1, "Aerial Cable", and Account 242:3, "Buried Cable", as appropriate, along with the depreciation reserves. This approach left only the inside wiring portion in account 232 and the account was retitled "Station connections-inside wiring."

[4] The carriers were given the option of either flash-cut (expensing immediately) or phase-in expensing. Under the phase-in approach, 25% of these costs were to be expensed in year one, 50% expensed in year two, 75% in year three, and 100% in year four. Also, carriers were allowed, in certain instances, to "flashcut"—start immediate 100% expensing of these costs with state commission approval.

[5] In six instances the Commission has approved a shortened amortization period. Illinois Bell and General Telephone Company of Florida were both granted permission to utilize a six year period. Mountain Bell was granted permission to utilize a seven year period for their Arizona jurisdiction, and United Telephone Company of the Northwest was granted permission to utilize a seven year period for their Oregon and Washington jurisdictions. Ohio Bell was granted permission to use a seven and a half year amortization period. In each case permission was contigent upon obtaining approval of the state commission.

installation costs does not cover the total cost, the remainder is recovered from the general body of intrastate ratepayers.

8. While the costs of installing inside wiring are being collected from both interstate and intrastate ratepayers, not all these customers are causing inside wiring costs in any one year. That being the case, we do not believe that the costs of installing inside wiring should continue to be spread among the general body or ratepayers, even those who do not cause any of the costs. Consistent with the Commission's original goal in CC Docket 79–105, we belived that the burden of inside wiring costs should be borne by the cost causative customer.

9. In our tentative view the only reasonable means of achieving this goal and effecting payment by those customers who give rise to inside wiring expenditures is to detariff [6] the installation of simple inside wiring. Removing the installation of simple inside wiring from regulation should generate cost savings due to a reduced regulatory burden. The detariffing of simple inside wiring will also enable others such as electricians, home improvement contractors and new home builders to provide the installation of wiring on a competitive basis with the telephone companies.[7] A competitive environment for the provision for inside wiring should help reduce costs to the public. Our proposal to detariff the installation of simple inside wiring is consistent with our decision in CC Docket 82–681 wherein we detariffed the inside wiring (complex wiring) installed for detariffed complex systems. There, we detáriffed complex wiring in the same way and on the same basis as we detariffed CPE in the *Second Computer Inquiry (Computer II)*.[8] We now propose to detariff the installation of simple inside wiring in the same manner as we detariffed CPE in *Computer II*. This will further our overall regulatory objective to introduce competition whenever technological and economic circumstances are conducive.[9]

10. *Maintenance of Inside Wiring*—Our existing accounting rules require that the maintenance expense for all inside wiring also be recorded in expense account 605, "Installation and repairs of station equipment". As in the case of the installation of inside wiring, this accounting treatment places part of the burden of the maintenance costs on the general body of ratepayers. As we stated before, under current separations procedures approximately 28% of the expenses recorded in Account 605 are assigned to the interstate jurisdiction for recovery from interstate ratepayers. Further, to the extent the tariffed charges for maintenance of inside wiring do not cover costs, the remainder is recovered from the general ratepayer. Thus, we again face the problem of how to ensure that the cost causative customer bears directly the costs of maintenance.

11. We are encouraged by the fact that many telephone companies are no longer automatically providing the maintenance of simple inside wiring as part of their general tariff offerings. We have found that more and more telephone companies are moving, with state approval, to offering optional maintenance plans. Under these plans, the telephone companies will continue to provide the maintenance of the inside wiring for monthly fees ranging from $.30 to $.90 per month. Customers that do not avail themselves of the maintenance plan will have to pay the telephone companies for any maintenance or repairs or else seek other sources for maintenance and repair work.[10]

12. While we believe that these maintenance plans are an improvement, they do not accomplish our objective of having the cost causative customer bear directly the costs of maintenance for several reasons. First, a large number of the states require no tariffed charges for telephone company maintenance of inside wiring in which case all of the costs are borne by the general body of ratepayers. Second, the maintenance fees charged under maintenance plans may not be adequate to cover the costs of maintenance provided under the plan. Third, the rates charged for maintenance or repair work on a service call basis may not fully cover the costs of work for those customers not under the plan. And fourth, part of the maintenance costs being recorded in account 605 is being passed on to the interstate ratepayers through the separations process just as part of the installation cost is.

13. We tentatively find that the only reasonable means of effecting payment by those customers who give rise to maintenance and repair costs for inside wiring is to detariff the maintenance of all inside wiring in the same manner as we detariffed CPE in *Computer II*.

14. *Ownership of Inside Wiring*—In line with our proposals to detariff the installation of simple inside wiring and the maintenance of all inside wiring, it is necessary to address the question of ownership of the inside wiring once the companies have fully amortized their inside wiring costs. The ownership question pertains to both newly installed simple inside wiring (at least theoretically) and to all embedded inside wiring.

15. Inside wiring consists of the costs of the wire (materials) and the costs of the labor. Labor represents approximately 90–95% of inside wiring costs. After the costs associated with inside wiring have been fully recovered, the only practical value the inside wiring has is to the customer and/or owner of the premises.

16. The investment in embedded inside wiring (both simple and complex) originally was recorded in account 232 and is being amortized to expense account 608. New installations of simple inside wiring by telephone companies are now being expensed as incurred to account 605. Since the telephone companies are recovering through their revenue requirements their expenses for newly installed simple inside wiring, there are no additional costs left to recover. Similary, with embedded inside wiring currently being amortized, we believe that once this amortization is complete all cost to the telephone companies will have been recovered. To

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[6] The detariffing of inside wiring will in a number of cases require an unbundling of certain rate elements now in the tariffs since inside wiring has generally not been shown as a separate rate element. Recently, in our Special Access Tariff Order adopted March 1, 1985, we ordered the exchange carriers to develop, for the first time, a separate rate element for inside wiring previously bundled into a station connections rate element.

[7] The former BOCs would be required to comply with the separate subsidiary requirement of *Computer II*.

[8] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F. 2d 198 (D.C. Cir. 1982), *cert denied sub nom.* Louisiana Pub. Serv. Comm'n v. FCC, 103 S. Ct. 2109 (1983).

[9] The Commission in Docket 81–216 found that a competitive market situation exists for simple inside wiring when it allowed the customer to obtain new simple wiring from sources other than the telephone comapnies. Amendment of Part 68, Second Notice of Proposed Rulemaking and Order, 92 FCC 2d 1 (1982), First Report and Order, 97 FCC 2d 527 (1984). Further evidence that a market exists is, according to industry sources, supported by the fact that telephone companies often contract out wiring on new construction projects.

[10] The result of an informal study conducted by the staff of the Commission's Accounting and Audits Division indicated that as of November 15, 1984, the variance in the percentage of customers participating in optional monthly maintenance plans appears to be directly correlated to the manner in which the presentation of the offer was made to the customers, e.g., whether or not an actual response was necessary to decline or accept the maintenance plan. In Oregon, for instance, Pacific Northwest Bell customers must subscribe to the maintenance plan in order to be covered. Some Mountain Bell customers, however, must ask not to be covered by its maintenance plan. While only 16.5% of Oregon's customers chose the plan, in other states the participation ranged from 55% to 84.7%.

permit the companies to retain title and late be able to sell the inside wiring to the customer and/or owner of the premises would permit the companies to reap additional revenues from costs which have already been fully recovered. Therefore, we are proposing that the ownership/title to inside wiring should pass to the customer and/or ower [11] of the premises once the telephone companies have fully amortized their inside wiring costs.

17. We realize that detariffing the installation and maintenance of inside wiring will require revisions to the Uniform System of Accounts for Class A and Class B Telephone Companies (USOA). For example, if inside wiring is detariffed and removed from regulation, account 605 may not be needed.[12] In view of the fact that the majority of the costs that go into account 605 would no longer be place there, it may be more appropriate to renamed and redefine account 605 for any costs which remain. Any necessary modifications to the USOA will be made at the time we issue a decision in this Docket.

18. Interested parties should comment on the merits of our proposals as well as suggest others that may be available for the Commission to accomplish its stated objective of ensuring that the cost of inside wiring is borne by the cost causative customer. Such comments should include the revenue impact and tax consequences, if any, of such changes. We also request that commenting parties suggest any necessary modifications to the USOA that will be required as a result of our proposals. In the past, the Department of Defense (DoD) submitted comments in this Docket and we encourage DoD to express any concerns it may have on the issues raised in this NPRM.

I. Other Matters

19. In compliance with the provisions of section 605(b), of the Regulatory Flexibility Act, 5 U.S.C. § 605(b) we believe the above sets forth the purpose of the proposals. We certify that these accounting changes can be readily implemented by all carriers subject to Part 31 without significant economic impact on their operations. Moreover, as we discussed in paragraph 9 our proposals should help small businesses, such as electricians and home improvement contractors, to become competitive with the telephone companies in offering to install and maintain inside wiring.

20. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation on the day of oral presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission's official receiving the oral presentation. Each such *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state the docket number of the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

21. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

V. Ordering Clauses

22. Accordingly it is ordered, pursuant to the Provisions of Sections 4(i) and 220 (a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a), that there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

23. It is further ordered, That interested persons may file comments on the specific proposals discussed in this Notice on or before May 13, 1985. Reply comments shall be filed on or before May 28, 1985. In accordance with the provisions of § 1.419, of the Commission's Rules and Regulations 47 CFR § 1.419, and original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, N.W., Washington, DC.

24. It is further ordered, pursuant to section 220(i) that the Secretary shall serve a copy of this Notice on each state commission.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-8443 Filed 4-8-85; 8:45 am]

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[11] Our primary concern is that the telephone company has no claim to the ownership of the inside wiring. However, we request comments on whether the commission should determine this and whether the inside wiring should properly go to the customer or owner of the premises.

[12] Our proposals herein do not in any way effect the definition of the telephone network's customer premises interface or demarcation point set forth in our First Report and Order in CC Docket No. 81-216, 49 FR 21719 (May 23, 1984) and currently set out in 68.3(h) of our rules.

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47 CFR Part 73

[MM Docket No. 85-90; FCC 85-151]

AM Broadcast Directional Antenna Sampling Systems and Proof of Performance Field Strength Measurements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its rules for operation of AM broadcast stations which requre licensees of AM directional antennas to perform field strength measurements on a specified schedule. The value of these measurements and the circumstance for which they are needed will be examined. The required standards for design and construction of AM directional antenna sampling systems will also be considered. The purpose of this proceeding is to review the necessity for the above requirements.

DATES: Comments are due by June 10, 1985 and replies by July 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: John W. Reiser, Mass Media Bureau, Technical and International Branch, Washington, D.C. 20554, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Federal Communications Commission.

Notice of Proposed Rule Making

In the Matter of AM Broadcast Directional Antenna Sampling Systems and Proof of Performance Field Strength Measurements; MM Docket No. 85-90, FCC 85-151.

Adopted: March 28, 1985.
Released: April 3, 1985.
By the Commission.

1. The Commission, on its own motion, is initiating this new proceeding in order to solicit public comment on a proposed revision of § 73.61 of the Rules. In particular § 73.61(b) requires certain AM broadcast stations using directional antenna (DA) systems to make periodic field signal strength proof of performance measurements and measurements at designated signal monitoring locations. These measurements are used to determine the radiation characteristics of DA systems. For many stations, these measurements must be made at regular intervals, whereas other similar stations are exempt from the measurement requirements based on certain conditions that existed prior to July 1, 1981. In this proceeding the Commission will explore fully the continued value of antenna proof of performance measurements, and the circumstances for which they are appropriate. Also considered is the need to specify construction practices for on-site antenna monitor sampling systems in the Rules.

Background

2. AM stations are licensed such that new stations provide an adequate signal over the community to which they are assigned, without causing interference to other previously existing stations. The Commission's authorization requirements provide for stations to use DA systems to prevent interference that could occur with non-directional operation. To this end, a DA focuses the radiated power in specific directions that do not cause interference, and at the same time minimizes radiated power in other protected directions. The non-directional antenna radiates power equally in all horizontal directions. To assure that a directional antenna continues to perform properly over time, 47 CFR 73.61(b) now requires a station that uses a DA system to perform radiation measurements on a regularly scheduled basis. These measurements, when combined and analyzed, are called a proof of performance (proof).

3. There are three types of DA proof of performance measurements. The first is the full proof (See 47 CFR 73.151 and 73.152) which is made to determine if the antenna is operating according to the terms of the station construction permit. The full proof is required for all DA stations when the antenna is first constructed or extensively modified. The second measurement, the partial proof, is required for most stations once each third year, and also if the DA undergoes minor system repairs. This measurement is used to determine if there have been changes in the system operation since its initial construction. The third, the skeleton proof, is required for some DA stations each year that a partial proof is not required. This measurement produces effectively a "spot" check of DA system operation.

4. Field strength measurements in support of proofs of performance involve using portable field strength meters to make observations of the station's signal level at various locations. Measurements are usually made in about eight horizontal directions, from the center of the DA site (radials). Full proofs require about fifty measurements on each radial, partial proofs about ten measurements per radial, and skeleton proofs require only three measurements per radial.

5. In order to conduct a proof of performance, the person making the measurements must travel by vehicle or walk along each radial to a distance of about twenty miles. At each of the measurement points along each radial, a reading using a field strength meter must be made to determine the signal level. Frequently, the person conducting these measurements must traverse swamps, water, thick woods, or rough terrain in order to reach the specified locations. The use of a helicopter, boat, or special conveyance is sometimes required. A full proof of performance can involve making measurements at hundreds of locations; whereas, skeleton proofs may require measurements at only ten or twenty locations. Once the field measurements have been taken, they must be analyzed to determine the actual signal levels being transmitted in each radial direction. This procedure is costly and time consuming, although it provides an excellent analysis of DA performance.

6. Approximately 25% of the stations using directional antennas are required to make field measurements at certain locations (monitoring points) specified in the station license. There are usually less than eight monitoring points per directional pattern located between two and three miles from the antenna and in critical directions (toward those stations being protected from interference). The station license states the maximum signal that is permitted at each point. Although measurements at these points provide a quick check for possible changes in the antenna pattern, variations in the signal level occur because of weather and seasonal changes, as well as changes in the conditions and use of the surrounding area.

7. In addition to the monitoring point and proof of performance measurements, the operation of a directional antenna is monitored on site by sampling and by measuring equipment that indicate the relative amplitudes and phases of the electric current in each of the elements (towers) of the directional array. The Rules currently contain detailed requirements for the design and installation of these sampling systems, including specifications for the type and method of installing the sampling devices and the cable connecting the sampling devices to the monitor.

Issues

8. This Rule Making action addresses two specific issues, as follows:

(1) Is there a continuing need for a required schedule of partial and skeleton proof of performance and antenna monitoring point measurements?

(2) Is there a need to retain specific design criteria in the Rules for on-site DA parameter monitoring systems?

Each issue will be developed separately.

Issue One: Continuing Need for Proofs

9. The Commission has no record of numerous complaints of interference caused by mis-adjusted AM directional antennas. To the contrary, we believe the AM band has served the public efficiently for several decades through the use of well-maintained directional antenna systems. We also believe licensees recognize the importance of each station maintaining its own antenna system properly to prevent over-all degradation of the band.

10. Of paramount importance in the operation of a directional array is the antenna's ability to maintain a specified

radiation pattern. The requirements now in the Rules provide for regularly scheduled checks of the radiation pattern. However, almost no flexibility is provided to licensees to employ alternative procedures. The Rules provide procedures to be followed by most licensees, regardless of the characteristics or stability of the particular DA.

11. For example, one antenna system might have a history of being stable over years of operation. Another antenna might require weekly adjustments to maintain the operating parameters. Licensees of systems are now required to conduct a triennial partial proof and intervening annual skeleton proofs. That schedule might be overly burdensome for the first system and insufficient for the second.

12. Based on the long record of successful operation of directional antennas, on our belief that licensees will recognize and execute their responsibilities, and on the relative differences in stability and complexity between arrays, it appears appropriate to re-examine the antenna proof of performance requirements. Even for those arrays designated as critical arrays by the Commission, flexibility in radiation pattern maintenance procedures should be given to individual licensees.[1]

13. We propose to eliminate the requirement that skeleton proofs be performed due to their limited value in showing actual antenna performance. Partial proofs are far more helpful in analyzing antenna performance, but the three year cycle may be more often than required for many antenna arrays. We therefore propose to give licensees the freedom and responsibility to schedule when routine partial proof measurements should be made. This will greatly reduce the burden on each licensee having a stable antenna array and still help assure that antenna systems do not deteriorate.

14. Therefore, we believe there is a continuing need for periodic partial proofs of performance and field monitoring point measurements, but on a schedule determined by the licensee. Even though the FCC requirements for specific schedules of monitoring point and partial proofs would be eliminated, licensees would continue to have the responsibility to maintain authorized radiation patterns. This function could be performed through partial proofs or other equivalent means, at the descretion of the licensees. This action would also eliminate the inconsistencies between stations as to the requirements for conducting field measurements, as indicated earlier. The Commission, however, retains the authority to require that proofs of performance be made by licensees whenever there is question of stability in directional antenna systems.

Issue Two: Sampling Systems

15. As indicated in the discussion for proofs of performance, a licensee has the basic responsibility to maintain the actual pattern shape of the directional antenna array. One method to monitor the array is through an on-site sampling system that registers the relative electrical current amplitudes and phases in each antenna element. The Rules now define the design and construction of sampling system that must be installed by licensees for new antennas or major rebuilds or existing antennas or of the sampling system (See 47 CFR 73.68).

16. Although the requirements in § 73.68 have provided guidance for the design of a sampling system, the guidance may be excessive for many antennas and insufficient for others. For example, critical arrays have very specific parameter tolerances which a sampling system that just meets the design requirements of § 73.68 could not measure. Similarly, a simple two-tower array may need only a minimal sampling system to maintain parameters. Also, § 73.68 does not allow for advances in technology such as fiber optics or digital sampling. However, because the quality of a sampling systems is so important to maintaining a day-to-day watch on DA performance, we solicit comments as to what extent § 73.68 should be deregulated. For example, currently the type of coaxial cable to be used for sampling lines is specified in the Rules. Although this level of specificity assures consistency between stations, is that degree of consistency necessary to prevent an increase in interference on the AM band? Further, to what extent can industry-mandated standards replace the current Rules?

17. *Regulatory Flexibility Initial Analysis.*

I. *Reason for Action:* The current Rules require some AM directional antenna licensees to perform proof of performance measurements while exempting others. This proposal would eliminate any such discrimination; and, minimize the need for the rigid schedule now imposed on licensees performing these measurements. Additionally, the proposal requests comments on relaxation of design and installation requirements of antenna sampling systems.

II. *The Objective:* To eliminate unnecessary regulations and policies.

III. *Legal Basis:* The action is proposed in accordance with sections 4 (i), 303 (e) and (r) of the Communications Act of 1934, as amended.

IV. *Description, Potential Impact, and Number of Small Entities Affected:* The proposed Rule changes should favorably affect most AM broadcast directional antenna licensees by relieving them of the schedule imposed on licensees performing proof-of-performance measurements.

V. *Recording, Recordkeeping, and Other Compliance Requirements:* None.

VI. *Federal Rules Which Overlap, Duplicate, or Conflict with this Rule:* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objective:* None.

Paperwork Reduction Act

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Actions

18. The Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603 (a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 et seq.)

19. Accordingly, it is proposed to amend Part 73 of the Commission's Rules as set forth in the attached Appendix. Authority for the action taken herein is contained in sections 4(i), 303 (e) and (r) of the Communications Act of 1934, as amended.

20. Pursuant to applicable procedures set forth in § 1.415 and 1.419 of the Commission's Rules and Regulations, interested parties may file Comments on or before June 10, 1985, and reply comments on or before July 10, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular

[1] The operating parameters of a critical array must be maintained to extremely close tolerance to prevent interference. See 47 CFR 73.68.

business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

21. For purposes of this nonrestrictive Notice and comment Rule Making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits an *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments on the proceeding must prepare a written summary of that presentation; and, on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

22. Further information on this proceeding may be obtained by contacting John W. Reiser, Technical and International Branch, Policy and Rules Division, Mass Media Bureau, (202) 632–9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. 47 CFR 73.14 would be amended by revising the definition of *Critical Directional Antenna* to read as follows:

§ 73.14 AM broadcast definitions.

* * * * *

Critical Directional Antenna. An AM Broadcast Directional Antenna that is required by terms of a station authorization to be maintained with the relative currents and phases at higher tolerances of deviation that those permitted under § 73.62; and, observed with a high precision monitor capable of measuring these parameters.

* * * * *

2. 47 CFR 73.53 would be amended to add paragraph (d) to read as follows:

§ 73.53 Requirements for authorization of antenna monitors.

* * * * *

(d) Stations determined as having a critical directional antenna must use an antenna monitor having high tolerance characteristics determined on an individual basis, and specified on the station authorization. Such monitors are not subject to the authorization requirements of paragraph (a) but they may be used only at the station for which they were specified.

3. 47 CFR 73.61 would be amended by revising paragraphs (a) and (b); and by removing Note 1, and Note 2 to read as follows:

§ 73.61 AM directional antenna field measurements.

(a) Each AM station using a directional antenna system must make field strength measurements at the monitoring point locations specified in the instrument of authorization as often as necessary to ensure proper directional system operation.

(b) Each AM station using a directional antenna system must perform a partial proof of performance as often as necessary to ensure proper directional system operation.

4. 47 CFR 73.154 would be amended by removing paragraph (b), revising paragraph (a) by removing its designation; and by revising the headnote to read as follows:

§ 73.154 Directional antenna partial proof of performance field strength measurements.

* * * * *

5. CFR 73.1225 would be amended by revising paragraph (c)(1)(iv), by deleting paragraph (c)(1)(iv)(A), and by redesignating paragraphs (c)(1) (iv)(B) and (c)(1)(iv)(C) as (c)(1)(iv)(A) and (c)(1)(iv)(B), to read as follows:

§ 73.1125 Station inspections by FCC.

* * * * *

(c) * * *

(1) * * *

(iv) Copy of the partial antenna proofs of performance directed by § 73.154 and made pursuant to the following requirements:

* * * * *

§ 73.1690 [Amended]

6. 47 CFR 73.1690, Modification of transmission systems, would be amended by removing paragraph (d)(3).

§ 73.1820 [Amended]

7. 47 CFR 73.1820, Station log, would be amended by removing paragraph (a)(2).

[FR Doc. 85–8445 Filed 4–8–85; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 85–102; FCC 85–157]

Amendment of the Commission's Rules To Make Additional Channels Available for Private Carrier Paging Operations in the 929–930 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to reapportion the channels allocated to private non-commercial paging and private carrier paging systems and whether to allow interpool sharing. Such modifications appear necessary in order to ensure that the quality of service in one pool is not compromised while frequencies in the other pool remain lightly used.

DATES: Comments are due by May 13, 1985 and replies by May 28, 1985.

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

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, Rules Branch (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Proposed Rulemaking

In the matter of Amendment of Part 90 of the Commission's rules to make additional channels available for private carrier paging operations in the 929–930 MHz band; PR Docket No. 85–102; FCC 85–157.

Adopted: April 1, 1985.

Released: April 5, 1985.

By the Commission.

Introduction

1. The Commission is initiating this proceeding on its own motion to propose a modification in the distribution of channels available for private non-commerical paging and private carrier paging (PCP) operations in the 929–930 MHz band. The present distribution of channels appears to have resulted in uneven loading between private paging systems. Interpool sharing is also proposed to minimize future loading imbalances on these channels.

Background

2. On April 29, 1982, the Commission allocated the 929–930 MHz band to the Private Land Mobile Radio Services for paging operations.[1] Operational rules concerning the use of this band for private systems were deferred pending the analysis of comments filed in response to a *Further Notice* in this Docket.[2] In July of 1982, the Commission adopted a *Second Report and Order* in this proceeding establishing rules and policies to govern the operations of private paging stations in the band.[3] The Commission provided private land mobile users two alternatives to satisfy their paging requirements: (1) Non-commercial private systems (including, sharing paging facilities with multiple licensing or cooperative sharing arrangements) and (2) private carrier (commercial) paging systems. In order to ensure that an adequate pool of frequencies would be available for non-commercial applicants, the Commission established separate frequency pools.[4] Based on projected user demand, the Commission allocated thirty channels for private non-commercial systems and ten channels for private carrier paging systems. The Commission stated however, that should a significant number of channels in either category remain unused it would review the use of channels in each pool and make changes if necessary.

Discussion

3. It has been almost three years since the Commission made the specific channel allocations. A review of our licensing records indicates that we have authorized over 600 private paging stations and less than 30 non-commercial stations. Based on these figures it appears that a modification of the present channel distribution in this band is in order. Accordingly, we are proposing to take ten channels from the non-commercial pool and to make them available for private carrier paging operations. Present non-commercial paging licensees on these channels would be grandfathered indefinitely.

4. We recognize that the proposed redistribution of channels may still result in significantly heavier loading on the commercial channels than on the non-commercial channels. In order to ensure that frequencies assigned in the non-commercial pool will not remain unused while the needs of commercial users go unmet we are proposing to allow interpool sharing of these channels. However, in order that private non-commercial eligibles are allowed ample opportunity to apply for channels and to implement systems in a manner best suited to their needs, we are proposing to delay the interpool sharing provisions until January 1, 1987. Consistent with other sharing arrangements used in the private radio services, an applicant requesting a frequency outside its pool must show that there are no satisfactory frequencies available within its own category and that the frequency requested is not being used within the proposed area of operation by an in-pool user.

Regulatory Flexibility Act Initial Analysis

5. The Commission certifies that sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission affirms that current licensees will not be required to incur any obligations, financial or otherwise, and that existing non-commercial users on the frequencies being allocated for private carrier paging operations will be permitted to renew their authorizations indefinitely.

Paperwork Reduction Act Statement

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

7. Accordingly, notice is hereby given of rule making to amend Part 90 of the Commission's Rules and Regulations, in accordance with the proposal set forth in the attached Appendix.

8. The proposed amendment to the Rules is issued pursuant to authority contained in sections 4(i), 303(b), 303(f), 303(g), and 303(r) of the Commissions Act, as amended.

9. It is further ordered that the Secretary shall cause a copy of this *Notice of Proposed Rule Making* to be served upon the Chief Counsel for Advocacy of the Small Business Administration. The Secretary shall also cause a copy to be published in the **Federal Register.**

10. We encourage all interested parties to respond to this *Notice of Proposed Rule Making* since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex-parte* contracts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex-parte* presentation is any written or oral communication (other than formal written comments/pleadings of formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex-parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex-parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission official receiving the oral presentation. Each *ex-parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules 47 CFR 1.1231.

11. Pursuant to applicable procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before May 13, 1985, and reply comments on or before May 28, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such

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[1] *First Report and Order*, Docket No. 80–183, 47 FR 24557 (June 7, 1982).

[2] Further Notice of Proposed Rule Making, Docket No. 80–183, 47 FR 16052 (April 14, 1982).

[3] *Second Report and Order*, Docket No. 80–183, 47 FR 39502 (September 8, 1982).

[4] Commercial applicants have an immediate need for channels as part of their business ventures, but individual private users generally do not apply for channels until they need them.

information is noted in the Report and Order.

12. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

13. For further information on this proceeding, contact Herb Zeiler, Private Radio Bureau, Federal Communications Commission, Washington, D.C. (202) 634-2443.

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

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

PART 90—[AMENDED]

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 90.494 is amended by revising the table in paragraph (a) and adding a new Paragraph (g).

§ 90.494 One-way paging operations in the 929–930 MHz band.

(a) * * *

TABLE

Pool 1—MHz	Pool 2—MHz
929.0125	929.3625
929.0375	929.3875
929.0625	929.4175
929.0875	929.4375
929.1125	929.4625
929.1375	929.6375
929.1625	929.6625
929.1875	929.6875
929.2125	929.7125
929.2375	929.7375
929.2625	929.7625
929.2875	929.7875
929.3125	929.8125
929.3375	929.8375
929.4875	929.8625
929.5125	929.8875
929.5375	929.9125
929.5625	929.9375
929.5875	929.9625
929.6125	929.9875

Frequencies listed in Pool 1 are available for shared use by all eligible Part 90 users except those eligible as private carrier paging (PCP) licensees.

Frequencies listed in Pool 2 are available only for shared use by private carrier paging (PCP) licensees.

Frequencies 929.7625 and 929.9875 are available for shared use in multi-area paging systems by private carrier paging (PCP) licenees.

Frequencies 929.2625 and 929.4875 are available only for shared use in mult-area paging systems for all Part 90 users except private carrier paging (PCP) licenees.

* * * * *

(g) Except for the channels available for multi-area operation, the channels listed in the Table in paragraph (a) of this section are available as of January 1, 1987, on a shared basis to all persons eligible in both pools under the following conditions:

(1) Channels will be available for interpool sharing only if there are no satisfactory frequencies available in the pool in which the applicant is actually eligible.

(2) There are no in-pool users authorized in the proposed area of operation.

[FR Doc. 85-8444 Filed 4-8-85; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 68
Tuesday, April 9, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement; Bureau of Land Management Grants of Right-of-Way for the Celeron/All American Pipeline Project in the States of Arizona, California, New Mexico and Texas

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations (36 CFR Part 800) with the Bureau of Land Management and the State Historic Preservation Officers of Arizona, California, New Mexico and Texas providing for the management of historic properties that may be affected by the grants of right-of-way for the Celeron/All American Pipeline Project. The proposed Programmatic Memorandum of Agreement will establish mechanisms by which historic properties will be identified, evaluated and treated in order to satisfy the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

DATE: *Comments Due:* May 9, 1985.

ADDRESS: Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401, Telephone (303) 236–2682.

Dated: April 4, 1985.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 85–8408 Filed 4–8–85; 8:45 am]
BILLING CODE 4310–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

[Docket No. 85–318]

Availability of Final Supplement to Gypsy Moth Environmental Impact Statement

Correction

In FR Doc. 85–7580 beginning on page 12593 in the issue of Friday, March 29, 1985, make the following correction:

On page 12594, first column, the following signature should appear above the file line:

"R. Max Peterson,
Chief, Forest Service".

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5–85]

Proposed Foreign-Trade Zone; Santa Ana, CA; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Santa Ana, California, requesting authority to establish a general-purpose foreign-trade zone in Santa Ana, Orange County, adjacent to the Los Angeles-Long Beach Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 27, 1985. The applicant is authorized to make this proposal under Sections 6300–6305 of the Government Code of California.

The proposed foreign-trade zone would cover 43 acres within the City's 500-acre Inter City Commuter Station Redevelopment Project Area on Santa Ana Boulevard west of the Santa Ana Freeway, some 33 miles southeast of Los Angeles. The Santa Ana Community Redevelopment Agency plans to acquire the property pursuant to its authority under California law to acquire sites for development. The City's Economic Development Corporation, a non-profit organization with low-interest financing authority, would be the zone operator.

The application contains evidence of the need for zone services in the area. Several firms have indicated an interest in using zone procedures for the warehousing/distribution of products such as electronic components, computers and accessories, optical items, diving and safety equipment. No approvals for manufacturing are being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Alice Rigdon, District Director, U.S. Customs Service, Pacific Region, 300 S. Ferry St., Terminal Island, San Pedro, CA 90731; and Colonel Dennis F. Butler, District Engineer, U.S. Army Engineer District Los Angeles, P.O. Box 2711, Los Angeles, CA 90053.

As part of its investigation, the examiners committee will hold a public hearing on May 7, 1985, beginning at 10:00 a.m., in the City Council Chambers, City Hall, 20 Civic Center Plaza, Santa Ana.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by April 30. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through June 6, 1985.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce Branch Office, 116A W. 4th Street, Santa Ana, CA 92701

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: April 4, 1985.
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 85-8504 Filed 4-8-85; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held April 25, 1985, 3:30 p.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, D.C. If necessary, the meeting will continue April 26 from 9:00–10:00 a.m. in Room 3407, Herbert C. Hoover Building. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentaion of papers or comments by the public.
3. Spare and replacement parts policy.
4. Procedure for review by DOD of license applications.
5. Raising the GLV limit.
6. Comparison of licensing procedures and time frames of other COCOM countries.
7. Levels of technology that require licenses by other COCOM countries.
8. Automation of DOC licensing procedures.
9. Treatment of emergency license applications by other agencies.
10. Action items underway.
11. Action items due at next meeting.

Executive Session

12. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the pulic may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated April 4, 1985.
Milton M. Baltas,
Director, Technical Programs Staff Office of Export Administration.
[FR Doc. 85-8505 Filed 4-8-85; 8:45 am]
BILLING CODE 3510-01-M

Articles of Quota Cheese; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Publication of Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which subsidies were identified in our annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: April 12, 1985.
Alan F. Holmer,
Deputy Assistant Secretary, Import Administration.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy (cents per pound)	Net [2] subsidy (cents per pound)
Belgium	European Community (EC) Restitution Payments.	0.3	0.3
Canada	Export Assistance on Certain Types of Cheese.	26.4	26.4
Denmark	EC Restitution Payments.	0.1	0.1
Finland	Export Subsidy	32.3	32.3
	Indirect Subsidies	14.2	14.2
		46.5	46.6
France	EC Restitution Payments.	1.2	1.2
Ireland	EC Restitution Payments.	0	0
Italy	EC Restitution Payments.	15.1	15.1
Luxembourg	EC Restitution Payments.	0.3	0.3
Netherlands	EC Restitution Payments.	0	0
Norway	Indirect (Milk) Subsidy	13.3	13.3
	Consumer Subsidy	29.5	29.5
		42.8	42.8
Switzerland	Deficiency Payments	55.8	55.8

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS—Continued

Country	Program(s)	Gross [1] subsidy (cents per pound)	Net [2] subsidy (cents per pound)
U.K.	EC Restitution Payments.	0	0
W. Germany	EC Restitution Payments.	0	0

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 85-8420 Filed 4-8-85; 8:45 am]
BILLING CODE 3510-DS-M

[Case No. 626]

Piher Semiconductores, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductores, S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain.

By Order of April 9, 1982, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982), December 7, 1982, 47 FR 55989 (December 14, 1982), March 22, 1983, 48 FR 12762 (March 28, 1983), May 19, 1983, 48 FR 23471 (May 25, 1983), August 26, 1983, 48 FR 40418 (September 7, 1983), November 30, 1983, 48 FR 54676 (December 6, 1983), February 28, 1984, June 1, 1984, 49 FR 23906 (June 8, 1984), August 31, 1984, 49 FR 35823 (September 12, 1984), and December 14, 1984, 49 FR 49469 (December 20, 1984), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of December 14, 1984 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by failure of such extension coupled with a continuing consideration of a motion filed by Piher international Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 903 Feehanville Drive, Mt. Prospect, Illinois 60056, and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through June 1985 in the shipment release documents filed by Piher International Corp. in support of its Application for this extension, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Parts 368-399 (1984)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after June 1985 should a continuing consideration of its aforesaid motion entail serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective April 1, 1985.

Dated: April 3, 1985.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-8422 Filed 4-8-85; 8:45 am]
BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With Israel on Category 361

April 4, 1985.

On March 29, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Israel to enter into consultations concerning exports to the United States of cotton sheets in Category 361, produced or manufactured in Israel.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Israel, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton sheets in Category 361, produced or manufactured in Israel and exported to the United States during the twelve-month period which began on March 29, 1985 and extends through March 28, 1986 at a level of 626,455 numbers.

A summary market statement follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 361 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute a "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Israel—Market Statement

Category 361—Cotton Sheets

March 1985.

Summary and Conclusions

United States imports of Category 361 from Israel are non-institutional type sheets. Imports from Israel during 1984 were 626,455 sheets (52,205 dozen), up 404.3 percent from the 1983 imports of 124,226 sheets (10,352 dozen). Israel was the fourth largest supplier, accounting for 7.43 percent of the total 1984 imports. This was substantial growth and from a country which shipped no sheets in 1982. The market for Category 361 non-institutional sheets has been disrupted by imports and imports from Israel, in 1984, reached a level which disrupted the U.S. market.

U.S. Production

Production of non-institutional cotton sheets in the United States increased from 990,000 dozen in 1979 to 1,279,000 dozen in 1980. Production trended downward after 1980, declining to 1,014,000 dozen sheets in 1983. Production for the first three quarters of 1984 were 587,000 dozen sheets, down 26.3

percent from the same period in 1983. Production by quarters in 1984 trended downward pointing toward a more substantial decline in 1984 than is indicated by the decrease registered during the first three quarters.

U.S. Imports

U.S. imports of non-institutional cotton sheets increased from 22,000 dozen in 1979 to 248,000 dozen in 1983. Imports in 1984 were up 150 percent to 622,000 dozen. Imports during the last quarter of 1985 were 247,000 dozen sheets, almost equal to the total 1983 imports. Israel, in 1983, first appeared as an exporter of sheets to the U.S.

Import Penetration

The ratio of imports to domestic production increased sharply, up ten-fold, from 2.2 percent in 1979 to 24.5 percent in 1983. The ratio for the first three quarters of 1984 was 66.1 percent, 263 percent above the same period in 1983. The very sharp spurt in imports during the last quarter of 1984 probably resulted in an import ratio between 80 and 85 percent for the full year of 1984.

Domestic Producers Market Share

The U.S. market for domestically produced and imported non-institutional cotton sheets, after increasing in 1980, was remarkably stable through 1984. The U.S. producers share of the market was also stable through 1981, but began to decline an increasing rate thereafter. The domestic producers share for 1981 was 95 percent; it dropped to 89 percent in 1982; to 80 percent in 1983; and to 60 percent during the first three quarters of 1984. The full year share in 1984 will be even smaller due to the surge in imports during the last quarter.

Import Values vs U.S. Producers Price

Nearly all the sheets imported from Israel are carded sheets entering under TSUSA No. 363.3010. Imports are good quality flannel sheets which are landed at a duty-paid value below the U.S. producers price for comparable sheets.

[FR Doc. 85-8421 Filed 4-8-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 8 and 9 May 1985.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebrasks 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specified need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense.

P.H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 4, 1985.

[FR Doc. 85-8426 Filed 4-8-85; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chaper 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Record of Military Processing—Armed Forces of the United States; DD Form 1966.

DD Form 1966 is the basic form used by all military Services for obtaining data used in determining eligibility of applicants for enlistment in the Armed Forces of the United States and for establishing records for those enlisted. Individuals (male and female) 17 to 26 years of age.

Responses 1,000,000.

Burden hours 334,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301-4000, telephone (202) 695-0643.

Patrica H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 4, 1985.

[FR Doc. 85-8425 Filed 4-8-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Community College of the Air Force (CCAF Advisory Committee); Meeting

The Community College of the Air Force Advisory Committee will hold a meeting on May 6, 1985 at 8:00 a.m. in the Conference Room, Room 6, Building 905, and May 7, 1985 at 8:00 a.m. in the Conference Room, Room 203, Building 900, located at Randolph Air Force Base, San Antonio, Texas.

The meeting is open to the public.

Agenda items include: Briefings by Air Training Command Staff Agencies, Governance, Faculty Credentials, State of the College, Status of CCAF Self-Study for Reaffirmation of Accreditation, CCAF Program Review Status, Technical Training Center Reaffirmation Status, and Health Care Sciences Department Briefing.

For further information, contact Lieutenant Colonel John R. Fergus, (205) 293-7937, Community College of the Air Force, Maxwell Air Force Base, Alabama 36112-6655.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-8411 Filed 4-8-85; 8:45 am]

BILLING CODE 3910-01-M

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be fowarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Air Force ROTC Four-year Scholarship Application

The application is used by the AFROTC Four-year Central Scholarship Selection Board to evaluate applicants for four-year scholarships. The information is needed to ensure that all applicants are considered on an equitable basis, and that only the best-qualified applicants with a proven potential for success are awarded scholarships.

High School Students or Graduates between the Ages of 16 and 21
Responses 15,000
Burden hours 7,500

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Viriginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Major J.D. Hogan, HQ USAF/MPPE, The Pentagon, Washington, DC 20330–5060, telephone (202) 695–0318.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
April 4, 1985.

[FR Doc. 85–8424 Filed 4–8–85; 8:45 am]
BILLING CODE 3810–01–M

Department of the Army

Supplemental Notice of Intent To Prepare Environmental Impact Statement

AGENCY: Department of the Army, DOD.

ACTION: Supplemental Notice of Intent to Prepare an Environmental Impact Statement on the potential impacts resulting from the demilitarization of all M55 rockets currently in storage within the continental United States (CONUS). These obsolete munitions contain the lethal chemical warfare nerve agents GB or VX. Stockpiles of these rockets are located at the following CONUS installations: Anniston Army Depot (ANAD), Anniston, Alabama; Lexington-Blue Grass Depot Activity (LBDA), Lexington, Kentucky; Pine Bluff Arsenal (PBA), Pine Bluff, Arkansas; Tooele Army Depot (TEAD), Tooele, Utah; and US Army Depot Activity Umatilla (UMDA), Hermiston, Oregon.

1. On January 30, 1984, the Army published a Notice of Intent to prepare Environmental Impact Statements on the proposed construction, operation and decontamination of chemical agent demilitarization facilities at ANAD, LBDA and UMDA (49 FR 3679). In accordance with regulations for implementing the procedural provisions of the National Environmental Policy Act, promulgated by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500–1508) and applicable implementing regulations, the Army initiated a public scoping process designed to aid in identifying the significant issues related to the proposed action. Public scoping meetings were held at Anniston, Alabama (February 15, 1984), Richmond, Kentucky (February 16, 1984), and Hermiston, Oregon (February 21, 1984). As a result of comments received during the scoping process for those EISs, the Army has determined that it is appropriate to develop a broader plan for the demilitarization of all M55 rockets currently in CONUS storage and to prepare a single EIS which examines all the alternatives.

2. Alternatives which have been identified for consideration in the EIS include:

a. The "no action" alternative which is considered to be deferral of demilitarization with continued storage of the munitions at their current locations, including actions necessary to meet the conforming storage requirements of the Resource Conservation and Recovery Act (RCRA).

b. Construction (or modification), operation, and ultimate decommissioning of separate demilitarization facilities at each of the current storage locations. Use of these facilities for other purposes including the demilitarization of other agents/munitions would be subject to separate review under the National Environmental Policy Act (NEPA).

c. Transportation to demilitarization facilities to be constructed or modified at one or more locations. The following transportation alternatives have been selected at this time for specific, detailed analysis:

(1) Transportation of rockets from ANAD, LBDA, and UMDA to Johnston Atoll, Central Pacific Ocean.

(2) Transportation of rockets from ANAD, LBDA and UMDA to TEAD, Tooele, Utha.

(3) Transportation of rockets from ANAD and LBDA to PBA, Pine Bluff, Arkansas, and from UMDA to TEAD, Tooele, Utah.

Use of these facilities for other purposes including the demilitarization of other chemical agents/munitions would also require separate NEPA review.

3. The Department of the Army is responsible for the demilitarization of obsolete/unserviceable chemical warfare agents and munitions in a manner which provides protection of public health and safety and which is environmentally acceptable. Incineration, in industrial-sized, environmentally safe, disposal facilities, would be the method used for destroying the rockets. Under the National Environmental Policy Act (NEPA), the Army is required to analyze and document the impacts of alternative courses of action and to consider the results of this analysis in its decision as to which of the alternatives to implement.

4. In accordance with the decision to prepare an EIS on the demilitarization of all M55 rockets in CONUS, the Army is extending the public scoping process initiated in January 1984, and is seeking continued participation and additional input from the public as well as Federal, state and local agencies. To provide an opportunity for public input to the extended scoping process, interested

individuals, governmental agencies, and private organizations are invited to submit information and comments for consideration by the Army and possible incorporation into the Environmental Impact Statement. Particularly solicited is information that would assist the Army in analyzing the potential environmental consequences of the proposed action. This includes information on other environmental studies planned or completed in the area of all storage installations and sites potentially impacted by the transportation alternatives; issues and alternatives which the Environmental Impact Statement should consider; recommended mitigating measures; and major impacts associated with the proposed action. Concerned agencies and individuals' views will be obtained through persons, telephone, and mail contacts in addition to anticipated public scoping meetings to be held at convenient locations near all storage installations and possibly at some key sites most closely related to the transportation alternative. Schedules of public scoping meetings will be announced locally at a later date. Pertinent issues identified at the three public scoping meetings held in February 1984 will be considered in the draft EIS as will the findings of the National Research Council report on Disposal of Chemical Munitions and Agents, comments made from the series of meetings held in Kentucky (LBDA area), and the results of the tests being conducted to assess the M55 rocket. Questions and comments regarding the scope of the analysis and/or specific issues which should be addressed in the analysis should be submitted to LTC John A. Soyak, US Army Toxic and Hazardous Materials Agency, ATTN: AMXTH-ES, Aberdeen Proving Ground, Maryland 21010-5401. Telephone (301) 671-2556. Comments and suggestions should be received by December 4, 1895, to be considered in the draft EIS.

5. It is estimated that the draft Environmental Impact Statement will be available to the public in March 1986. When the draft Environmental Impact Statement is completed, a public notice of its availability for review will be announced in order that interested person may comment on the document. That notice will also provide a schedule of public hearings to solicit public response. Comments received will be considered in preparation of the final Environmental Impact Statement. Persons desiring to be placed on a mailing list to receive additional information regarding the public scoping process and copies of the draft and final EISs may contact LTC Soyak at the address indicated above.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA(I&L).

[FR Doc. 85-8431 Filed 4-8-85; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command; Directorate of Personal Property; International Through Government Bill of Lading Household Goods Program

AGENCY: Military Traffic Management Command, DoD.

ACTION: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), is modifying procedures associated with the acquisition of rates for international through Government bill of lading (ITGBL) shipments of household goods and unaccompanied baggage. This has been previously announced in 50 FR 9881, March 12, 1985.

SUMMARY: The purpose of this announcement is to extend the time for receipt of written comments from April 12, 1985, to May 1, 1985, and to provide other information.

Comments: Written comments concerning the intended modification will be considered if received not later than May 1, 1985.

Address Comments To: Commander, Military Traffic Management Command, Attn: Rate Acquisition Division (MT-PPC-Int'l), Room 408, 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman or Mrs. Naomi King, HQ Military Traffic Management Command, Attn: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041-5050, (202) 756-2385.

SUPPLEMENTARY INFORMATION: In view of the additional time for comments and to allow sufficient time for evaluating responses, Volume 51 will continue to be based on industry related documents.

This request for comments and the resulting determinations are being made under the authority of 10 U.S.C. 2301-2314 and DOD Directives 4500.9 and 4500.34R.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 4, 1985.

[FR Doc. 85-8477 Filed 4-8-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services

Randolph-Sheppard Act; Initiation of Secretarial Determination

AGENCY: Department of Education.

ACTION: Notice of Initiation of Secretarial Determination.

SUMMARY: Notice is given that the Department of Education is initiating a Secretarial determination under the Randolph-Sheppard Act in accordance with 20 U.S.C. 107(b). As required by section 107(b) of the Randolph-Sheppard Act, the Secretary will determine whether proposed limitations on the placement or operation of blind vending facilities in Federal prisons, based on a finding that such placement or operation would adversely affect the interests of the United States, are justified. Interested persons or organizations are invited to submit written documentation on the issues for consideration in the determination. Please provide four copies.

DATES: Written documentation must be received on or before May 24, 1985.

ADDRESS: Documentation should be addressed to the Department of Education, Rehabilitation Services Administration, Division for the Blind and Visually Impaired, Vending Facility Branch, Room 3222, MES Building, 330 C Street, SW., Washington, D.C. 20202. Attention: Arbitration Clerk.

FOR FURTHER INFORMATION CONTACT: Mr. Chester Avery, Director, Division for the Blind and Visually Impaired, Rehabilitation Services Administration, 330 C Street, SW., Washington, D.C. 20202. Telephone: (202) 732-1316.

SUPPLEMENTARY INFORMATION: On October 26, 1984, the Department of Justice, Federal Bureau of Prisons, requested two limitations on the placement or operation of vending facilities in Federal prisons. One limitation would apply to vend facilities placed in inmate housing units and recreational areas and would consist of a requirement that a commission be paid from the profits of the vending facility to the prison commissary system. The second limitation would apply to vending facilities in visitors' and employees' lounges and would require that a commission be paid to employees' clubs. Both limitations are requested to apply nationally; however, if the second limitation is not found to be justifiable as applied to all facilities, it is requested that consideration be given to applying the limitation to particular facilities

where, due to special circumstances, it is found the interests of the United States would be adversely affected. In addition to addressing the issues of limitations, the Bureau of Prisons has agreed to utilize this process to address any collateral issues, such as income sharing, so national guidelines can be developed for the uniform application of the Randolph-Sheppard Act to all Federal prison facilities. While this Secretarial determination will address the application of the Randolph-Sheppard Act to all Federal property administered by the Bureau of Prisons, it will particularly focus on the Federal Correctional Facility, Talledega, Alabama, where a Randolph-Sheppard licensed blind vendor is presently operating a vending facility.

Donald M. Thayer, J.D., Special Assistant to the Commissioner, Rahabilitation Services Administration, is designated the Review Officer for this Secretarial determination and will proceed with the Secretarial determination in accordance with the Procedures for the Conduct of a Secretarial Determination developed for the purpose. A copy of the procedures is available on request.

Availability to public: All documentation submitted in response to this Secretarial determination will be available for public inspection, during and after the comment period, in room 3224 Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Madeline Will,

Assistant Secretary, Office of Special Education and Rehabilitation Service.

April 1, 1985.

[FR Doc. 85-8476 Filed 4-8-85; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Education

Regional Educational Laboratories and Research and Development Centers Program

AGENCY: Department of Education.

ACTION: Extension of Closing Date for Transmittal of Applications for Grants for Institutional Operations for NIE Research and Development Centers.

SUMMARY: The Secretary of Education (the Secretary) extends the closing date for transmittal of applications for grants to operate an NIE research and development center (a center), under the Regional Educational Laboratories and Research and Development Centers Programs, to August 15, 1985.

Applications for new grants for institutional operations must be mailed or hand delivered on or before August 15, 1985.

Authority for these grants is contained in section 405(f) of the General Education Provisions Act (GEPA), as amended (20 U.S.C. 1221e(f)).

On October 12, 1984, the Secretary published in the **Federal Register** at 49 FR 40079 an application notice for the transmittal of applications for planning grants and grants for institutional operations for NIE research and development centers. In the case of 5-year grants for institutional operations, the Secretary requested applications by June 6, 1985. The Secretary is now considering the option of providing additional information to applicants with respect to the research areas of centers. If the Secretary decides to provide additional information, that information will be published in the **Federal Register** by May 15, 1985. Anticipating this possibility, the Secretary considers that a longer application preparation period will provide sufficient time for prospective applicants.

Applications previously submitted in response to the June 6 deadline date may be revised by the new closing date.

Program information regarding eligibility requirements, selection criteria, post-award requirements, length of awards, and available funds, as well as requirements for the transmittal of applications, were given in the October 12, 1984 notice and remain unchanged. In addition, no changes will be made in the eleven missions identified in the October 12, 1984 notice.

Grant information packages, including application forms and a copy of the application notice mentioned above, may be obtained by contacting Susan Klein (telephone: (202) 254-6271) or Gail MacColl (telephone: (202) 254-7930), National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. Originally released in October 1984, these packages provide current information to applicants, with the sole exception of the change in closing date included in this notice.

Prospective applicants and other interested individuals and organizations not already on NIE's mailing list of laboratory and center competitions may request to be kept informed of new information on the center competitions by contacting Mrs. Ella Jones, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. Telephone: (202) 254-7180.

(Sec. 405(f) of the General Education Provisions Act, 20 U.S.C. 1221e(f))

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

Dated: April 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-8564 Filed 4-5-85; 1:16 pm]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award (Grant)

AGENCY: San Francisco Operations Office, DOE.

ACTION: Notice of Restriction of Eligibility for Grant Award.

SUMMARY: The proposed work will be conducted at the University of Nevada-Las Vegas, Earth Sciences Division, 255 Bell Street, Reno, Nevada 89505. The proposed period of performance is twelve months, beginning April 1, 1985 through April 1, 1986. The proposed cost of the work is $119,000.

GRANT NO. DE-FG03-85SF15555

Scope of Project

The major thrust of the research is to investigate the benefit of elevated temperatures provided by geothermal fluids in recovering valuable elements from ores and concentrates. Reaction acceleration is one possible benefit of applying geothermal fluids, another is to raise temperature of leaching solutions in the winter when frequent low temperatures shut down operations.

The research to be conducted will investigate the co-location of mining/processing and geothermal occurrences in Nevada, the character of the geothermal resource, and the effects of these fluids on leaching, flotation and other processes for the recovery of valuable elements from the ores. Studies will entail collection of representative materials in the field, laboratory tests and evaluations, computer modeling, and plans with industry for possible full-scale field tests of specific applications.

FOR FURTHER INFORMATION CONTACT: Jane Hadly, Contract Specialist, Contracts Management Division, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in San Francisco, California, March 28, 1985.

Donald W. Pearman, Jr.,

Acting Manager.

[FR Doc. 85-8414 Filed 4-8-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA85-9-20-000 and TA85-9-20-001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 3, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 29, 1985 tendered for filing Second Substitute Sixth Revised Sheet No. 201 and Second Substitute First Revised Sheet No. 241 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Second Substitute Sixth Revised Sheet No. 201 is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment as set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such tariff sheet reflects reduced rates filed by its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"). Second Substitute First Revised Sheet No. 241 identifies the purchased gas cost included in the sales rates shown on Second Substitute Sixth Revised Sheet No. 201.

Algonquin Gas proposes the effective date of Second Substitute Sixth Revised Sheet No. 201 and Second Substitute First Revised Sheet No. 241 to be March 1, 1985.

Algonquin Gas requests permission to credit the subsequent month's billing following Commission acceptance to effectuate such rate change as of March 1, 1985, in the event Algonquin Gas does not receive approval in time for the April 7, 1985 billing of March, 1985 sales.

Algonquin Gas notes that a copy of this filling is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before April 11, 1985. Protest 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. 85-8461 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-48-000 and TA85-2-48-001]

ANR Pipeline Co.; PGA Rate Change

April 3, 1985.

Take notice that on March 29, 1985, ANR Pipeline Company (ANR) pursuant to Section 15 to the General Terms and Conditions of its F.E.R.C. Gas Tariff, Original Volume No. 1, tendered for filing with the Federal Energy Regulatory Commission ("Commission") First Revised Sheet No. 18 and First Revised Sheet No. 19 to Original Volume No. 1 of its Tariff to be effective May 1, 1985.

First Revised Sheet No. 18 reflects an 8.57¢ per dekatherm ("dth") decrease in the gas cost component of the commodity rate of ANR's CD-1 and MC-1 Rate Schedules, and increase of $1.684 in the monthly demand rate applicable to the CD-1 and MC-1 Rate Schedules and an increase in ANR's one part rates applicable to Rate Schedules SGS-1 and LVS-1 of 8.45¢ and 0.43¢, respectively, per dth.

ANR states that the change in rates set forth above is a result of factors which are outlined below:

A. Factors resulting in cost reductions.

1. Reductions in the cost of gas imported from Canada as a result of renegotiated agreements with suppliers.

2. Reductions in the cost of gas from a number of domestic producers as a result of renegotiated gas purchase contracts in terms of prices and take requirements.

3. A reduction of 0.55¢/dth resulting from the completion of installment payments associated with the Commission's Order Nos. 94, *et al.*

B. Factors resulting in partially offsetting cost increases.

1. Producer price increases for regulated supply sources as authorized by the Natural Gas Policy Act of 1978.

2. The replacement of older, lower cost supply sources with new, higher cost sources.

3. An increase in the surcharge for deferred gas costs to a positive 3.93¢ per dth from the November 1, 1984 PGA surcharge of a negative 9.27¢ per dth.

4. A net increase of 2.89¢ per dth which results from a reduction in the carrying charges associated with a decrease in ANR's take-or-pay balances offset by an increase of the charges associated with the recovery of one-time payments and other reimbursement arrangements negotiated with suppliers in lieu of full take-or-pay payments. See Article IX, B of the Stipulation and Agreement at *ANR Pipeline Company*, Docket Nos. RP82-80, *et al.*

5. An increase of 0.61¢ per dth resulting from the expiration of the requirement in Article X(a) of the Stipulation and Agreement in Docket Nos. RP82-80, *et al.*, that ANR reduce its rates in connection with volumes of gas purchased from its affiliate, ANR Production Company, for PGA filings effective May 1, 1984 and November 1, 1984.

First Revised Sheet No. 19 reflects the fact the since there were zero MSAC's reported by ANR's customers, there is no PGA reduction.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice an Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 85-8462 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8212-001]

City of Santa Rosa; Surrender of Preliminary permit

April 4, 1985.

Take notice that City of Santa Rosa, Permitee for the Rock Creek Project No. 8212, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 8212 was issued on September 28, 1984, and would have

expired on February 28, 1986. The project would have been located on Rock Creek in Shasta County, California.

The Permittee filed the request on March 11, 1985, and the preliminary permit for Project No. 8212 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8463 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-301-000]

Clay Petroleum, Inc.; Application for Partial Abandonment of Service

April 4, 1985.

Take notice that Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service as described herein, all as more fully described in the respective application which is on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before April 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI85-301-000, B, Mar. 27, 1985	Clay Petroleum, Inc., 101 Southwestern Blvd.—Suite 110, Sugar Land, TX 77478.	Trunkline Gas Co., Ralph Thomas No. 1, 280 Acre Unit, Ramsey Field, Colorado County, TX.		(1)

[1] Applicant requests authorization to abandon service from certain acreage committed and dedicated under a gas purchase contract dated July 24, 1967, between Trunkline Gas Company and Prarie Producing Company, *et al.* The only well producing on the subject acreage was plugged and abandoned in March 1982, and the subject lease reverted to the landowners.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 85-8464 Filed 4-8-85; 8:85 am]

BILLING CODE 6717-01-M

[Docket No. RP85-122-000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

April 3, 1985.

Take notice that Colorado Interstate Gas Company (CIG), on March 28, 1985, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1, 1-A, and 2. The proposed base rates would increase revenues from CIG's jurisdictional customers by approximately $47.5 million above CIG's currently effective rates (excluding the GRI adjustment and all surcharges). The proposed increase is based on the 12-month period ended December 31, 1984, adjusted for known and measureable changes which will become effective within the nine months subsequent to that date, as provided for in the Commission's Regulations.

CIG states that the jurisdictional rates filed herewith are designed to enable CIG to recover increases in its jurisdictional cost of service.

In addition, included in this filing are Revised Tariff Sheets adjusting the Transportation rates CIG charges its existing transportation customers under various X-Rate Schedules contained in Original Volume No: 2 of CIG's FERC Gas Tariff.

Finally, CIG has included with its filing proposed changes in its resale Rate Schedules G-1, P-1, H-1, and F-1. A new Rate Schedule PR-1 applicable to existing CIG resale services for Mountain Fuel Resources, Inc., K N Energy, Inc., and Northern Gas Division of K N Energy, Inc., is also proposed. Likewise, CIG filed a new FERC Gas Tariff, Original Volume No. 1-A which contains transportation rate schedules to cover new transportation services by CIG. In addition to transportation rate schedules, Volume No. 1-A contains general terms and conditions which, *inter alia*, establishes curtailment procedures that would be implemented in the event CIG has insufficient capacity to meet all of its sales and transportation obligations. These general terms and conditions also include exculpatory language that defines the extent of CIG's liability in the event of curtailment. CIG states that the new transportation services are the subject of a contemporaneous application by CIG pursuant to section 7 of the Natural Gas Act.

CIG contends that the subject changes in its resale rate schedule and the new transportation rate schedules are intended to make the jurisdictional services offered by CIG more responsive to the current marketing demands in its service area. CIG requests all necessary waivers of the Commission's Regulations in order for its filing to be accepted. CIG also states that copies of this filing have been served on its jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 85-8465 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-123-000]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

April 3, 1985.

Take notice that Colorado Interstate Gas Company (CIG) on March 28, 1985,

tendered for filing First Revised Sheet No. 61G to its FERC Gas Tariff, Original Volume No. 1. CIG states that this filing reflects the terms of Stipulation 16, adopted and approved by Ordering Paragraph E of the Commission's Opinion No. 226, issued September 28, 1984. This filing reflects a change in the period during which CIG is required to remit GRI funding unit collections to GRI from 30 days after receipt to 15 days after receipt. CIG requests an effective date retroactive to January 1, 1985.

CIG requests whatever waiver of Commission Regulations as may be deemed necessary to accept this tariff sheet for filing.

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 §§ 385.211 or 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8466 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-51-000 and TA85-3-51-001]

Great Lakes Gas Transmission Co.; Proposed Changes in F.E.R.C. Gas Tariff Under Purchased Gas Adjustment Clause Provisions

April 3, 1985.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on March 27, 1985, tendered for filing the following revised tariff sheets to its FERC Gas Tariff proposed to be effective April 1, 1985.

First Revised Volume No. 1

Fifth Revised Sheet No. 52
Fiftieth Revised Sheet No. 57
Alternate Fiftieth Revised Sheet No. 57.

Great Lakes states that the filing provides for a substantial reduction, estimated at $5.7 million on an annual basis, in the cost of gas resold by Great Lakes to ANR Pipeline Company ("ANR") resulting from recent negotiations among Great Lakes, ANR and TransCanada PipeLines Limited ("TransCanada"), sole supplier of natural gas to Great Lakes. As a result of further negotiations between Great Lakes and TransCanada the filing also provides for a substantial reduction in the cost of gas for total system company use estimated to be $16.2 million on an annual basis, and in the cost of gas for certain small customers namely Inter-City Gas Corporation, Peoples Natural Gas Company and Michigan Power Company, estimated to be $1.1 million annually. These reductions in border price for Canadian gas have been negotiated to meet the competative requirements of the respective markets being served.

Great Lakes has requested various waivers of the Commission's Regulations so as to permit the out-of-period PGA filing to become effective April 1, 1985.

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 should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8467 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-4-51-000 and TA85-4-51-001]

Great Lakes Gas Transmission Co.; Proposed Changes in F.E.R.C. Gas Tariff Under Purchased Gas Adjustment Clause Provisions

April 3, 1985.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on March 29, 1985, tendered for filing Fifty-First Revised Sheet No. 57, Alternate Fifty-First Revised Sheet No. 57 and Tenth Revised Sheet No. 57-A to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective May 1, 1985.

Fifty-First Revised Sheet No. 57 and Alternate Fifty-First Revised Sheet No. 57 reflect a Purchased Gas Cost Surcharge resulting from maintaining an Unrecovered Purchased Gas Cost Account for the period commencing September 1, 1984 and ending February 28, 1985. These tariff sheets are directly related to two filings made by TransCanada Pipelines' Limited (TransCanada) to the National Energy Board of Canada (NEB) on March 8, 1985 and March 11, 1985 respectively, requesting authorization for reductions in the export price of natural gas purchased by Great Lakes from TransCanada. In the event that the NEB approves the application of March 8, 1985 prior to the application of March 11, 1985 Great Lakes requested the approval of Fifty-First Revised Sheet No. 57. If both applications are approved by the NEB it was requested that the Commission approve Alternate Fifty-First Revised Sheet No. 57. Great Lakes further states that it has undertaken to advise the Commission promptly of the approvals granted by the NEB.

Tenth Revised Sheet No. 57-A reflects the estimated incremental pricing surcharge for the six month period commencing May 1, 1985 and ending October 31, 1985. No incremental costs are estimated for this period.

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 protest should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8468 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-45-003]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

April 3, 1985.

Take notice that on March 25, 1985, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City") tendered for filing substitute 23rd Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective March 1, 1985. Inter-City also submitted supporting schedules and exhibits as required by Commission regulations.

In order to permit the requested effective date, Inter-City requested waiver of applicable notice provisions and any other Commission regulations that might restrict such an effective date.

Inter-City states that substitute 23rd Revision Sheet No. 4 reflects a reduced rate for gas imported by Inter-City at International Falls, Minnesota pursuant to NEB license GL-29. (These imports constitute Inter-City's eastern zone for rate purposes.) The reduced rate and the terms and conditions of the attached amending agreement dated February 15, 1985 are further stated to have been approved by the NEB.

In its application, Inter-City also states that its western zone (GL 28) rates and proposed PGA adjustment remain unchanged from those set out on 21st Revised Sheet No. 4 filed on October 1, 1984 in Inter-City's Docket No. TA 85-1-45 (PGA 85-1), accepted for filing effective November 1, 1984. Although Inter-City had negotiated reduced rates for its GL 28 purchases and had filed to implement the lower rates pending NEB approval, the NEB denied the negotiated GL 28 rate.

Inter-City's application also requests that Fourth Revised Sheet No. 61, filed on January 24, 1985, be approved by the Commission effective February 14, 1985.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 85-8469 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-46-000 and TA85-2-46-001]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

April 3, 1985.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on March 29, 1985, tendered for filing with the Commission its Thirty-Third Revised Sheet No. 27 and Thirteenth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective May 1, 1985.

Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in section 18, General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1.

The current purchase gas adjustment is a reduction of 6.15¢ per dekatherm (dth). The deferred gas cost adjustment is 2.31¢ per dth or an increase of 11.31¢ per dth. These changes result in a net increase to the jurisidictional sales rate in this filing of 5.17¢ per dth, for a total effective rate of 360.52¢ per dth, to become effective May 1, 1985.

Kentucky West further states that, in making the instant filing, it does not waive or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fifth Circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982 in Docket Nos. TA82-2-46-001 (PGA-2) (IPR82-2). *(Kentucky West Virginia Gas Company* vs. *FERC,* Case No. 82-4595—filed December 3, 1982).

Kentucky West further states that, in making the instant filing, it does not waive any rights it may have to a filing to charge and collect NGPA prices for all Company-owned production retroactive to December 1, 1978, nor does it waive any rights to collect any carrying charges or interest charges applicable thereto.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commission and upon each party on the service list of Docket No. RP83-46.

Any person desiring to be heard or to protest such 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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 85-8470 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP84-63-003, et al.]

Mississippi River Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

April 3, 1985.

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 NE., Washington, D.C. 20426, on or before April 12, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
2/15/85	Mississippi River Transmission Corp.	RP84-63-003	Report
2/19/85	Alabama-Tennessee Natural Gas Co.	RP73-77-027	Do.
2/19/85	Panhandle Eastern Pipe Line Corp.	RP85-96-001	Btu.*
2/22/85	Northwest Central Pipeline Corp.	RP74-52-006	Report
2/26/85	North Penn Gas Co.	TA84-1-27-004	Do.
3/4/85	Columbia Gas Transmission Corp.	RP85-91-001	Btu.*
3/18/85	Alabama-Tennessee Natural Gas Co.	RP73-77-028	Report
3/18/85	Arkla Energy Resources.	RP85-119-000	Btu.*
3/20/85	Kentucky-West Virginia Gas Co.	RP85-120-000	Btu.*
3/25/85	North Penn Gas Co.	RP85-121-000	Btu.*

*Refunds resulting from Btu Measurement Adjustments. Each Company will retain its basic Docket No. and Sub-Dockets will be assigned to future related filings.

[FR Doc. 85-8471 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-25-002]

Mississippi River Transmission Corp.; Rate Change Filing

April 3, 1985.

Take notice that on March 29, 1985, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Substitute Ninth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Said tariff sheet is proposed to be effective as of March 1, 1985.

Mississippi states that the filing is being submitted pursuant to a Commission letter order dated February 25, 1985 at Docket No. TA85-1-25-000 and TA85-1-25-001 which accepted for filing Mississippi's Ninth Revised Sheet No. 4 to be effective March 1, 1985, subject to Mississippi filing revised rates to reflect any reductions in pipeline supplier rates being tracked therein. Mississippi states that the instant filing reflects rate changes from Natural Gas Pipeline Company of America. The annual cost reduction of this PGA revision to Mississippi's jurisdictional customers is approximately $5.0 million from rates contained in Mississippi's original PGA filing.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 8472 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-68-008]

Natural Gas Pipeline Co., of America; Change in FERC Gas Tariff

April 3, 1985.

Take notice that on March 29, 1985, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 1985.

Fifty-eight Revised Sheet No. 5
Twenty-fifth Revised Sheet No. 5A

Natural states that the revised tariff sheets were filed pursuant to the Docket Nos. RP83-68, *et al.* settement agreement to revise its entitlement charge downward to reflect the revised Annual Entitlements effective April 1, 1985.

A copy of this filing has been mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list at Docket Nos. RP83-68, *et al.*

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 §§ 385.214 and 385.211. All such motions or protests must be filed on or before April 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 85-8473 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-17-M

[Docket No. G-13963-000, et al.]

Phillips Oil Co. (Successor in Interest to Phillips Petroleum Co.), et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates[1]

April 4, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 23, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-13963-000, E, Mar. 18, 1985	Phillips Oil Company (successor in interest to Phillips Petroleum Company), 336 HS&L Building, Bartlesville, OK 74004.	El Paso Natural Gas Company, Aneth Field, San Juan County, UT.	(1)	14.73
CI79-645-000, E, Mar. 8, 1985	Shell Offshore Inc. (successor to Florida Exploration Company), P.O. Box 4480, Houston, TX 77210.	Florida Gas Transmission Company, Mississippi Canyon 194 Field, Offshore LA.	(2)	15.025
CI83-183-000, Mar. 6, 1985	Texaco Inc., P.O. Box 52332, Houston, TX 77052	Bridgeline Gas Distribution Company, South Marsh Island Block 238 Field, Offshore LA.	(2)	15.025
CI78-1247-001, E, Apr. 1, 1985	Shell Offshore Inc. (successor to Florida Exploration Company), P.O. Box 4480, Houston, TX 77210.	Florida Gas Transmission Company, South Marsh Island Blocks 149 and 150, Offshore LA.	(2)	15.025
CI85-259-000, A, Mar. 4, 1985	Pioneer Production Corporation, P.O. Box 2542, Amarillo, TX 79189.	Texas Eastern Transmission Corporation, Block A-567 High Island Area, South Addition, Offshore TX	(3)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI85-278-000, E, Mar. 6, 1985	ARCO Oil and Gas Company, Division of Atlantic Richfield Company (successor to Park Oil and Gas Inc.) P.O. Box 2819 (22100 DAB), Dallas, TX 75221.	ANR Pipeline Company, West Cameron Block 580, Offshore LA.	(4)	15.025
CI85-279-000, A, Mar. 5, 1985	Exxon Corporation, P.O. Box 2180, Houston, TX 77252-2180.	Transwestern Pipeline Company, North Horseshoe Bend, Eddy County, NM.	(5)	14.73
CI85-280-000, A, Mar. 11, 1985	Phillips Oil Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Amoco Gas Company, OCS-G-3306, Block 624, Matagorda Islands Area, Offshore TX.	(6)	14.73
CI85-281-000, A, Mar. 11, 1985	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Natural Gas Pipeline Company of America, West Cameron 81, OCS-G-3256, Offshore LA.	(7)	15.025
CI85-283-000, A, Mar. 4, 1985	Pioneer Production corporation, P.O. Box 2542, Amarillo, TX 79189.	Michigan Wisconsin Pipe Line Company, Block A-567, High Island Area, South Addition, Offshore TX.	(8)(9)	14.73
CI85-284-000, A, Mar. 4, 1985	do	Transcontinental Gas Pipe Line Corporation, Block A-567, High Island Area, South Addition, Offshore TX.	(8)(10)	14.73
CI83-444-001, E, 3/15/85 Mar. 15, 1985.	Phillips Petroleum Company (successor to Phillips Oil Company) 336 HS&L Building, Bartlesville, OK 74004.	Arkansas Louisiana Gas Company, North Ruston Field, Lincoln Parish, LA.	(11)	14.73
CI85-295-000, A, Mar. 22, 1985	Pennzoil Producing Company, P.O. Box 2967, Houston, TX 77001.	Texas Gas Transmission Corporation, Eugene Island Area, Blocks 330 (portion), and 337, Offshore LA.	(12)	15.025
CI85-296-000, A, Mar. 25, 1985	Amoco Production Company, P.O. Box 3092, Houston, TX 77077.	Natural Gas Pipeline Company of America, Boyd Field, Eddy and Lea Counties, NM.	(13)	14.73
CI85-297-000, A, Mar. 25, 1985	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, TX 77046.	Texas Gas Transmission Corporation, Eugene Island Block 337, Offshore Louisiana (Federal Domain).	(13)	14.73
CI85-299-000, E, Mar. 25, 1985	Cities Service Oil and Gas Corporation (successor to Sun Exploration and Production Company), P.O. Box 300, Tulsa, OK 74102.	Panhandle Eastern Pipe Line Company, Hugoton Field, Stevens County, KS.	(14)	14.73

[1] Effective December 1, 1983, Phillips Petroleum Company assigned to Applicant, its working interest in the Aneth Field, San Juan County, Utah.
[2] Effective as of September 21, 1984, Florida Exploration Company assigned to FEC Offshore Productive Inc. its interest in, *inter alia*, the leases covered by the certificate held by FEC and issued in Docket No. CI79-645.
[3] Applicant is filing for change in delivery point.
[4] Effective as of September 21, 1984, Florida Exploration Company assigned to FEC Offshore Productive Inc. its interest in the leases covered by the certificate held by FEC.
[5] Applicant is filing under Gas Purchase Contract dated February 13, 1984.
[6] By Assignment dated effective March 1, 1984, Park Oil and Gas, Inc. conveyed to Applicant all of its interest in and under the lands.
[7] Applicant is filing under Gas Purchase Contract dated December 10, 1979.
[8] Applicant is filing under Gas Purchase Contract dated February 18, 1985.
[9] Applicant is filing under Gas Purchase Contract dated January 7, 1985.
[10] Applicant is filing under Gas Purchase Contract dated May 13, 1983.
[11] Applicant is filing under Gas Purchase Contract dated November 14, 1984.
[12] Effective August 1, 1983, Phillips Oil Company assigned to Phillips Petroleum Company its interst in the Mathewes D Sand Unit located in Lincoln Parish, Louisiana.
[13] Applicant is filing under Gas Purchase Contract dated February 7, 1985.
[14] Applicant is filing under Gas Purchase Agreements dated May 21, 1978 and October 15, 1984.
[15] Applicant is filing under Gas Purchase Contract dated March 5, 1985.
[16] Effective December 1, 1984, Cities Service Oil and Gas Corporation acquired the interest of Sun Exploration and Production Company in certain leases in Steven County, Kansas.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession

[FR Doc. 85-8474 Filed 4-8-85; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 2030-009]

Portland General Electric Co.; Offer of Settlement

Issued April 1, 1985.

Take notice that on February 11, 1985, an offer of settlement was jointly filed by the Portland General Electric Company (PGE), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribes), and the United States Department of the Interior (Interior) with respect to the Pelton Project No. 2030. Project No. 2030 is located on the Deschutes River in Jefferson County, Oregon.

Section 10(e) of the Federal Power Act, 16 U.S.C. 803(e), requires the Commission to assess annual charges against licensees for the use of tribal lands embraced within Indian reservations. Portions of Project No. 2030 are located within the boundary of the Warm Springs Indian Reservation. PGE, the Tribes, and Interior in its capacity as trustee for the Tribes have entered into settlement agreement which would establish the compensation to be paid to the Tribes by PGE through the remainder of the Project No. 2030 license which expires on December 31, 2001. The agreement also settles a number of existing and prospective disputes among the parties to the agreement.

If the offer of settlement is approved by the Commission, the license for Project No. 2030 would be amended to provide that the compensation to be paid to the Tribes will be in accordance with the offer of settlement.

The offer of settlement is on file with the Commission and is available for public inspection. Anyone choosing to comment on the offer of settlement should file their comments with the Commission on or before May 9, 1985, at the following address: Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8475 Filed 4-8-85; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 943]

P.U.D. No. 1 of Chelan County, WA; Issuance of Annual License(s)

April 4, 1985.

Public Utility District No. 1 of Chelan County, Washington, is the Licensee for the Rock Island Project No. 943, located on the Columbia River in Washington. The license for Project No. 943 was issued effective January 21, 1930, for a period ending January 20, 1980. The project was maintained and operated under annual licenses until a new license was issued. 15 FERC ¶ 62,187 (1981). The Court of Appeals for the Ninth Circuit subsequently set aside the license. *Confederated Tribes and Bands of the Yakima Indian Nation* v. *FERC*, 734 F.2d 1347 (1984). *Petition for cert. filed* 53 U.S.L.W. 3652 (U.S. February 27, 1985) (No. 84-1365). In order to authorize the continued operation and maintenance of the project pending further Commission action, it is appropriate and in the public interest to issue an annual license to P.U.D. No. 1 of Chelan, Washington.

Take notice that an annual license was issued to P.U.D. No. 1 of Chelan

County, Washington for the period February 28, 1985,[1] to February 27, 1986, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Rock Island Project No. 943, subject to the terms and conditions of the original license. Take further notice that, if issuance of a new license does not take place on or before February 27, 1986, a new annual license will be in effect each year thereafter, effective February 28 of each year, until such time as a new license is issued, without further notice being given by the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8453 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-58-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 3, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on *March 26*, 1985 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Fourth Revised Sheet No. 100
Substitute Sixth Revised Sheet No. 101.

On December 10, 1984 and February 20, 1985, Texas Eastern was issued a temporary and a permanent certificate respectively, in Docket No. CP85-58-000, authorizing the sale and delivery of an additional 8000 dekatherms of gas per day to its sixty-eight (68) current Rate Schedule SGS customers. On March 7, 1985, Texas Eastern filed the necessary tariff sheets to reflect such changes pursuant to Ordering Paragraph (B) of the Commissions February 20, 1985 order.

The tariff sheets submitted herewith for filing are for the sole purpose of setting forth the correct total entitlement quantities for Closter, Mississippi and Huntingburg, Indiana which were misrepresented in the March 7, 1985 tariff filing wherein such entitlements were not consistent with the quantities previously filed for in the aforementioned Docket No. CP85-58-000 as Certificated by the Commission.

The proposed effective date of the above tariff sheets is December 10, 1984.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

[1] This is the date on which the Court of Appeals issued its mandate vacating the new license.

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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before 4/11/85. 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. 85-8454 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-50-000 and TA85-2-50-001]

Valley Gas Transmission, Inc.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

April 3, 1985.

Take notice that on March 29, 1985, Valley Gas Transmission, Inc. (Valley) tendered for filing Thirtieth Revised Sheet No. 2A to Original Volume No. 1, and Third Revised Sheet No. 10 to Original Volume No. 2, of its FERC Gas Tariff. Valley states that these tariff changes, which are proposed to become effective on May 1, 1985, are being filed pursuant to the purchased gas cost adjustment provisions of its tariff. Valley states that the proposed changes reflect adjustments to Valley's current surcharge adjustment and current gas cost adjustment.

A copy of this filing has been served on all jurisdictional customers and interested state regulatory commission.

Any person desiring to be heard or to protect said filing should file a motion to intervene or a 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 April 10, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8455 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2165-000]

William R. Miller; Applications, etc.

April 4, 1985.

Take notice that on March 25, 1985, William R. Miller filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Ohio Edison Company
Vice President, Governmental Personnel Relations—The Goodyear Tire and Rubber Company.

Any person desiring to be heard or to protect said filing should file a motion to invervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., 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 April 26, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-8456 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-49-003]

Williston Basin Interstate Pipeline Co.; Compliance Filing

April 3, 1985.

Take notice that on March 28, 1985, Williston Basin Interstate Pipeline Company (Williston) tendered for filing Second Substitute Original Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1 and Second Substitute Original Sheet No. 10 to its FERC Gas Tariff Original Volume No. 2, proposed to be effective January 1, 1985. These revised tariff sheets with supporting detail are filed pursuant to the Commission's order issued March 20, 1985, with respect to Williston's PGA filing of February 22, 1985, directing removal of third party costs, revision of NGPA code listings,

and statement of Order No. 94 production-related costs. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until April 1, 1985.

The revised tariff sheets effect a net rate decrease of 3.249 cents per Mcf relative to Williston's PGA filing of February 22, 1985, and a net rate decrease of 23.525 cents per Mcf relative to previously effective rates. Williston requests expedited review to permit rapid reflection of this rate reduction in customer billing.

Copies of this compliance filing were service upon Williston's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 April 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8457 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-305-000, et al.]

Carson Energy, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Carson Energy, Inc., Ice Haus, II

[Docket No. QF85-305-000]

March 29, 1985.

On March 18, 1985, J.R. Bishop, President, Carson Energy, Inc., (Applicant) c/o Western Energy Engineers, Inc., Box 474, Balboa Isle, California 92662 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle Ice Haus II cogeneration facility is located at 17171 S. Central Avenue, Carson, California 90746. The facility will contain a combustion turbine-generator, a two pressure level heat recovery boiler (HRB) and an extraction steam turbine-generator. The extracted steam together with low pressure steam from the HRB will be supplied to the absorption refrigeration equipment which provide refrigeration at the host ice making facility Ice Haus II. The net electric power production of the facility will be 41,997 kW. The primary energy source will be natural gas. The facility is scheduled to start commercial operation in winter of 1986.

2. Energy Technology Engineering Center, Rockwell International Corporation

[Docket No. QF84-194-002]

April 2, 1985

On March 25, 1985, Energy Technology Engineering Center (ETEC), Rockwell International Corporation, (Applicant) Box 1449, Canoga Park, California 91304, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Applicant asserts that the small power production facility will be located at the ETEC Test Facilities, Woolsey Canyon Road, Santa Susana, California. Waste in the form of superheated steam generated in the process of testing prototypes of commerical sodium-heated steam generators, will be utilized to generate electricity at a maximum net capacity of 30 megawatts.

3. Republic Gypsum Company

[Docket No. QF85-313-000]

April 2, 1985.

On March 22, 1985, Republic Gypsum Company, (Applicant) of P.O. Box 750, Dallas, Texas 75221, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Duke, Jackson County, Oklahoma 73532. The facility will contain one or more combustion turbine generator(s). The engine exhaust will be used in the direct fired drying process. The electrical power production capacity of the facility will be approximately 3000 kW. The primary energy source will be natural gas. The facility is expected to be installed on July 1, 1985. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Standard Paragraphs

E. 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 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-8450 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8801-000, et al.]

Hydroelectric Applications (Burlington Energy Development Associates, 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: 8801-000.

c. Date Filed: December 14, 1984.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: Upper Yarmouth.

f. Location: Royal River in Cumberland County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: May 29, 1985.

j. Description of Project: The proposed project would consist of: (1) an existing 11-foot-high, 200-foot-long fitted stone

and earth dam; (2) an existing 7-acre reservoir at a normal surface elevation of 70 feet M.S.L.; (3) a proposed intake gate; (4) a proposed 1,200-foot-long, 8-foot-diameter steel penstock; (5) a proposed powerhouse containing three turbine/generator units, each rated at 250 kW, with a total installed capacity of 750 kW; (6) a proposed 20 foot-long, 10-foot-wide rock-lined open tailrace; (7) a proposed 1,000 foot-long, 35.4-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 3,750 MWh. The existing dam is owned by the Town of Yarmouth, Yarmouth, Maine.

k. Purpose of Project: Project power would be sold to Central Maine Power 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. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigated project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $19,900.

2 a. Type of Application: Major License (over 5 MW).

b. Project No.: 7693–001.

c. Date Filed: February 29, 1984.

d. Applicant: Saylorville Hydro Partners.

e. Name of Project: Saylorville Water Power Project.

f. Location: On the Des Moines River in Polk County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David B. Ward, Flood, Bechtel, Ward, & Cole, 1000 Potomac Street, N.W., Suite 402, Washington, D.C. 20007, & Mr. Douglas A. Spaulding, Indeco of Minnesota, 1500 S. Lilac Drive, 351 Tyrol W. Bldg., Minneapolis, Minnesota 55416.

i. Comment Date May 13, 1985.

j. Competing Application: Project No. 7691, Date Filed: October 5, 1983.

k. Description of Project: The Applicant would utilize an existing dam and lands under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed approach channel, which would be approximately 3,250 feet long and 36 feet wide; (2) a proposed 22-foot-diameter, 500-foot-long reinforced concrete tunnel. The tunnel would be connected to the approach channel and would pass through the existing dam to the proposed intake structure; (3) a proposed intake structure, which would contain three, eight-foot-wide and nineteen-foot-high gates; (4) a proposed powerhouse containing two generating units rated at 2,100 kW and 6,200 kW, respectively, for a total installed capacity of 8,300 kW. The powerhouse would be located in the east abutment of the existing dam; (5) a proposed 134-foot-long stilling basin; (6) a proposed 3,400-foot/long by 97-foot-wide discharge channel; (7) a proposed 69-kV, 2,500-foot-long transmission line; and (8) appurtenant facilities. The estimated average annual energy output for the project is 30,552,000 kWh.

l. Purpose of Project: The energy generated at the project would be used for the normal operations of the project, and the excess energy would be sold to Iowa Power and Light Company or other local utility companies.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 8724–000.

c. Date Filed: November 19, 1984.

d. Applicant: Cook Electric, Incorporated.

e. Name of Project: Manton-Battle Creek Project.

f. Location: On North Fork of Battle Creek, near Manton, in Shasta and Tehama Counties, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dale Hatch, Cook Electric, Incorporated, P.O. Box No. 1071, Twin Falls, Idaho 83303–1071.

i. Comment Date: May 13, 1985.

j. Competing Application: Project No. 8725, Date Filed: 11/19/84.

k. Description of Project: The proposed project would consist of: (1) an 8-foot-high, 25-foot-long inlet structure at elevation 2,020 feet; (2) a 5-foot-diameter, 14,520-foot-long steel penstock; (3) a powerhouse with a total installed capacity of 4,700 kW operating under a head of 540 feet; and (4) a 6,600-foot-long, 69-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 24 million KWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $32,400.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, & D2.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 8725–000.

c. Date Filed: November 19, 1984.

d. Applicant: Elektra Power Corporation.

e. Name of Project: North Fork Battle Creek Hydroelectric Project.

f. Location: On North Fork of Battle Creek, near Manton, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U..C. 791(a)–825(r).

h. Contact Person: Mr. D. Dixon Collins, Elektra Power Corporation, 744 San Antonio Road, Palo Alto, California 94303.

i. Comment Date: May 13, 1985.

j. Competing Application: Project No. 8724, Date Filed: 11/19/84.

k. Description of Project: The proposed project would consist of: (1) an 8-foot-high, 110-foot-long diversion dam at elevation 2,000 feet; (2) a 5.6-foot-long diversion dam at elevation 2,000 feet; (2) a 5.6-foot-diameter, 13,00-foot-long diversion conduit; (3) a 6.5-foot-diameter, 900-foot-long steel penstock; (4) a powerhouse with a total installed capacity of 4,980 kW operating under a head of 410 feet; and (5) a 1.3-mile-long, 12.3-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 16 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of an 18-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $80,000.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

5 a. Type of Application: Exemption.

b. Project No.: 8402–000.

c. Date Filed: June 29, 1984.

d. Applicant: Melvin R. Hall.

e. Name of Project: Rapidan Mill Hydropower Project.

f. Location: Rapidan River, Orange and Culpepper Counties, Virginia.

g. Filed Pursuant to: Section 408 of the energy Security Act of 1989, 16 U.S.C. 2705 and 2708.

h. Contact Person: Mr. Melvin R. Hall, 7418 Silver Pine Drive, Springfield, Virginia 22153.

i. Comment Date: May 13, 1985.

j. Description of Project: The proposed project would consist of: (1) an existing concrete gravity dam, 200 feet long and 12 feet high; (2) an existing reservoir with a surface area of 3.5 acres and a storage capacity of approximately 20 acre-feet; (3) an existing concrete powerhouse located at the right dam abutment and containing two generating units with a total capacity of 105 kW, which would be refurbished; (4) an existing tailrace canal, 12 feet wide and 350 feet long; (5) an existing 12.5-kV transmission line leading from the powerhouse to a point of interconnection about 20 feet away; and (6) appurtenant facilities. The estimated average annual generation of 843,000 kWh would be sold to Virginia Electric Power Company.

k. 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 over or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 8876–000.

c. Date Filed: January 11, 1985.

d. Applicant: Wyoming Municipal Power Agency.

e. Name of Project: Grayrocks Dam.

f. Location: On the Laramie River, tributary to the North Platte River, near the town of Wheatland, in Platte County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Larry LaMaack, Post Office Box 900, Lusk, Wyoming 82225.

i. Comment Date: May 31, 1985.

j. Description of Project: The proposed project would consist of: (1) the existing 94-foot-high 2,700-foot-long Grayrocks Dam; (2) the existing Grayrocks Reservoir having a surface area of 3,547 acres and a storage capacity of 104,100 acre-feet at normal maximum water surface elevation 4,404 feet msl; (3) an existing 'morning glory' type intake structure and valve chamber; (4) an existing 8-foot-diameter 500-foot-long pipeline and a proposed 6-foot-diameter 540-foot-long pipeline; (5) a new powerhouse containing a generating unit rated at 1,000-kW; (6) a tailrace; (7) a switchyard; and (8) a 1,850-foot-long 13-kV transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which time it would conduct engineering and environmental feasibility studies and would prepare an FERC license application at a cost of $50,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project energy would be used by Applicant to serve its system needs. Applicant estimates that the average annual energy production would be 4,500 MWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

7 a. Type of Application: Minor License.

b. Project No.: 6552–001.

Date Filed: July 2, 1984.

D. Applicant: Frederick D. Ehlers.

e. Name of Project: North Fork Sprague River.

f. Location: On the North Fork Sprague River in Klamath County, near the town of Bly, Oregon.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Steven A. Zamsky, P.O. Box 7148, Klamath Falls, Oregon 97602.

i. Comment Date: May 29, 1985.

j. Description of Project: The proposed project would consist of: (1) a 2-foot-high, 30-foot-long gabion weir; (2) a concrete intake structure located within the bank of the stream; (3) a 4,800-foot-long concrete flume; (4) a forebay; (5) a 42-inch-diameter, 325-foot-long penstock; (6) a powerhouse containing three generating units with a combined total capacity of 1,119 kW; (7) a tailrace; and (8) a 6-mile-long, 12-kV transmission line tying into an existing Pacific Power and Light line. The estimated annual energy output would be 5,750 MWh.

The estimated cost of the project is $2,755,000.

k. Purpose of the Project: Project power would be sold to Pacific Power and Light.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8 a. Type of Application: Major Licensee.

b. Project No.: 7722–000.

c. Date Filed: October 13, 1983.

d. Applicant: Enviro Hydro, Incorporated.

e. Name of Project: Long Canyon Creek Water Project.

f. Location: On Long Canyon Creek, within Eldorado National Forest, in Placer County, California.

Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. H. L. "Pete" Childers, President, Enviro Hydro, Incorporated, 9200 Shanley Lane, Auburn, California 95603.

i. Comment Date: May 29, 1985.

j. Description of Project: The proposed project would consist of: (1) a 4-foot-high concrete diversion dam at elevation 3,840 feet; (2) a 48-inch-diameter, 14,000-foot-long low pressure pipe; (3) a 48-inch-diameter, 1,700-foot-long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 2,370 kW operating under a head of 560 feet; and (5) a 12.5-kV, 2-mile-long transmission line connecting the project with an existing Pacific Gas and Electric Company (PG&E) line north of the powerhouse. Applicant estimates the cost of the project at $3.5 million.

k. Purpose of Project: The project's estimated annual generation of 6.1 million kWh will be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C & D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 8751–000.

c. Date Filed: November 29, 1984.

d. Applicant: Great Western Power and Light, Inc.

e. Name of Project: Big Cottonwood Lower Project.

f. Location: On Big Cottonwood Creek in Salt Lake County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mike Graham, President, G.W.P., 484 East 300 North, Manti, Utah 84642.

i. Comment Date: June 3, 1985.

j. Description of Project: The proposed project would be located on lands of the State of Utah and the Wasatch National Forest and would consist of: (1) a new diversion structure at El. 5,100 feet m.s.l. on Big Cottonwood Creek; (2) a new pipeline penstock, 36 inches in diameter and about 5,620 feet long; (3) a new powerhouse, at El. 4,850 feet m.s.l., to contain turbine-generator units rated at 400 kW and 800 kW for a total rated capacity of 1,200 kW; (4) a tailrace returning flow to the creek; (5) a new transmission line, about 1,000 feet long, connecting to an existing Utah Power and Light Company (UP&L) line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,920,000 kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A6, 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 Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $55,000.

10 a. Type of Application: Minor License.

b. Project No: 5619–001.

c. Date Filed: December 24, 1984.

d. Applicant: R.D.D. Incorporated.

e. Name of Project: Knott Creek Hydroelectric Project.

f. Location: On Knott Creek, near Denio, Humboldt County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard Drake, R.D.D. Incorporated, 440 Rhinehart Court, Winnemucca, Nevada 89445.

i. Comment Date: June 3, 1985.

j. Description of Project: The proposed project would consist of: (1) the Applicant's existing 24-foot-high by 140-foot-long Knott Creek earthern dam to be raised by 14 feet and to have a storage capacity of 2,900-acre-feet at elevation 6,466 feet; (2) reconstruction of existing emergency spillway; (3) a 4-foot-wide, 3-foot-high diversion structure; (4) an 18-inch-diameter, 13,800-foot-long steel penstock; (5) a powerhouse containing one generating unit with a rated capacity of 554 kW operating under a head of 1,167 feet; (6) a 7,500-foot-long, 25-kV transmission line from the powerhouse to connect to an existing 25-kV Harney Electric Cooperative, Incorporated (HECI) transmission line. The applicant estimates the average annual energy generation at 1.6 million kWh to be sold to HECI. The project cost has been estimated to be about $1,315,000. No recreational facilities are proposed as part of this project.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

11 a. Type of Application: Major License.

b. Project No.: 6435–001.

c. Date Filed: August 1, 1984.

d. Applicant: Joseph B. Nelson.

e. Name of Project: Trapper Creek Hydro.

f. Location: On Trapper Creek in Valley County, Idaho, within Boise National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Warren B. Nelson, 3410 Montvue Drive, Meridian, Idaho 83642.

i. Comment Date: May 10, 1985.

j. Competing Application: Project No. 6206–002, Date Filed: 06/21/82.

k. Description of Project: The proposed project would consist of: (1) a 10-foot-high, 40-foot-wide diversion dam with crest elevation 6,455 feet, with a fish passage system; (2) a filter intake system of 24-inch-diameter perforated corrigated aluminum pipe; (3) a 26-inch-diameter, 12,100-foot-long steel penstock; (4) a log powerhouse at elevation 5,170 feet containing two generating units rated at 900 kW each producing a total average annual output of 8.5 GWh; (5) a buried corrigated aluminum pipe tailrace with a stilling basin; and (6) a 100-foot-long, 69-kV transmission line. The estimated project cost, as of July 1984, is $1,100,000.

This application has been accepted for filing as of June 15, 1982, the submittal date of the Applicant's originally accepted exemption application pursuant to Snowbird, Ltd. et al., 28 FERC ¶ 61,062, issued July 18, 1984.

l. Purpose of Project: Project output would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A9, B, C and D1.

n. 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 60 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).

12 a. Type of Application: Preliminary Permit.

b. Project No: 8332–000.

c. Date Filed: June 1, 1984.

d. Applicant: City of Ellensburg, Washington.

e. Name of Project: 1146 Wasteway Hydroelectric Project.

f. Location: On lands managed by the Bureau of Reclamation, on Kittitas Reclamation District Main canal and Yakima River, near Cle Elum, in Kittitas County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Douglas E. Williams, City Manager, City of Ellensburg, Ellensburg, Washington 98926.

i. Comment Date: May 13, 1985.

j. Description of Project: The proposed project would consist of: (1) a diversion structure consisting of an existing 10-foot-long by 10-foot-wide canal control gate and intake structure, located on the Kittitas Reclamation District Main Canal at Canal Station 1165 + 30; (2) a 1,200-foot-long, 4-foot-diameter welded steel penstock; (3) a powerhouse at Yakima River mile 173.7 containing two generators having a combined capacity of 3.6 MW and an annual energy production of 8.94 GWh; (4) a 100-foot-long tailrace to the Yakima River; and (5) a 0.5-mile-long, 115-kV transmission line to an existing Puget Sound Power and Light Company 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. The estimated cost of permit activities is $90,000.

k. Purpose of Project: Power will be utilized locally or marketed to utilities and industries in the northwest.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 8974–000.

c. Date Filed: February 25, 1985.

d. Applicant: Southern New Hampshire Hydroelectric Development Corporation.

e. Name of Project: Upper Factory Dam.

f. Location: On the Cocheco River in Strafford County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John N. Webster, P.O. Box 1073, Dover, New Hampshire 03820.

i. Comment Date: June 3, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) a 13.6-foot-high and 110-foot-long wooden A-frame dam, now breached, property of the New Hampshire Water Resources Board; (2) A reservoir with a surface area of 30 acres at a normal elevation of 105 feet mean sea level; (3) a new intake structure and powerhouse at the right abutment of the dam with three 250-kW turbine-generator units; (4) a new 480-volt and 1,000-foot-long transmission line; and other appurtenances. Applicant estimates an average annual generation of 3,500,000 kWh.

k. Purpose of Project: Project energy would be sold to the Pubic Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seek issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $1,500.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 8873-000.

c. Date Filed: January 7, 1985.

d. Applicant: W.A. Vachon and Associates, Inc.

e. Name of Project: West Branch of the Swift River.

f. Location: West Branch of the Swift River in Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. W.A. Vachon, W.A. Vachon Associates, Inc., P.O. Box 149, Manchester, Massachusetts 01944.

i. Comment Date: June 3, 1985.

j. Description of Project: The proposed project would consist of: (1) a proposed 3-foot-high, 40-foot-long concrete dam; (2) a proposed reservoir at elevation 1,390 feet ASL, with an area of 900 square feet and impounding 11,000 gallons of water; (3) a proposed 14-inch-diameter, 7,000-foot-long conduit; (4) a proposed powerhouse containing one 99-kW turbine/generator; (5) a proposed 1,600-foot-long, 480-volt transmission line; and (6) appurtenant facilities. The estimated average annual generation is 446 MWh.

k. Purpose of Project: Project energy would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A6, 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 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $9,000.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 8719-000.

c. Date Filed: November 15, 1984.

d. Applicant: Schroon River Hydro Associates.

e. Name of Project: Warrensburg.

f. Location: On the Schroon River in Warren County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ruben S. Brown, Schroon River Hydro Associates, 1250 Broadway, New York, New York 10001.

i. Comment Date: May 31, 1985.

j. Description of Project: The proposed project would consist of: (1) an existing 24-foot-high, 188-foot-long concrete gravity dam; (2) installation of 3-foot-high flashboards; (3) a reservoir having a surface area of 35 acres, a storage capacity of 500 acre-feet, and a normal water surface elevation of 645 feet msl; (4) a proposed forebay structure; (5) two proposed 8-foot-diameter, 60-foot-long steel penstocks; (6) a proposed powerhouse containing generating units with a total installed capacity of 2600 kW; (7) an 80-foot-long tailrace; (8) a proposed 34.5-kV, 400-foot-long transmission line; and (9) appurtenant facilities. The Applicant estimates the annual average generation would be 10,300,000 kWh. The existing dam and project facilities are owned by the Warrensburg Board and Paper Company.

k. Purpose of Project: All project energy generated would be sold to Niagara Mohawk Power 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. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $75,000.

16 a. Type of Application: Preliminary Permit.

b. Project No.: P-8983-000.

c. Date Filed: March 1, 1985.

d. Applicant: Cherokee Nation of Oklahoma.

e. Name of Project: W.D. Mayo Lock and Dam No. 14.

f. Location: On the Arkansas River in Sequoyah County, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Lawrence C. Wise, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74465.

i. Comment Date: June 3, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' W.D. Mayo Lock and Dam No. 14 and Reservoir and would consist of: (1) a proposed powerhouse 200 feet long and 200 feet wide to contain three bulb turbines with a combined installed capacity of 37.5 megawatts; (2) a proposed tailrace channel, trapezoidal in shape, with bottom width varying from 200 feet at the powerhouse to 600 feet at the confluence with the Arkansas River; (3) a new 161-kV transmission line 17 miles long; and (4) appurtenant facilities. Project power would be sold to the Applicant's customers.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $72,645.

17 a. Type of Application: Preliminary Permit.

b. Project No.: P-8749-000.

c. Date Filed: November 29, 1984.
d. Applicant: Clearwater Hydro Company.
e. Name of Project: Boulder Creek Hydroelectric.
f. Location: On Boulder Creek, within Kootenai National Forest Lands, near Bonners Ferry, in Boundary County, Idaho and Lincoln County, Montana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Charles Gresham, Clearwater Hydro Company, Route 1, Box 555, Hiawatha Road, Morristown, Tennessee 37814.
i. Comment Date: June 3, 1985.
j. Description of Project: The proposed project would consist of: (1) a 9-foot-high, 30-foot-long diversion dam at elevation 2,340 feet; (2) a 4,200-foot-long, 42-square-foot cross-section penstock tunnel; (3) a powerhouse containing two generating units with a total installed capacity of 4,850 kW; and (4) a 4,800-foot-long transmission line connecting to an existing 67-kV transmission line. The Applicant estimates an average annual energy production of 21.2 million 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 environmental feasibility studies and prepare an FERC license application at a cost of $18,400. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The project power would be sold to Washington Water Power via Northern Lights Utility.
l. This notice also consists of the following standard paragraphs: A6, A7, B, C, D2.

18 a. Type of Application: Preliminary Permit.
b. Project No: 8833–000.
c. Date Filed: December 28, 1984.
d. Applicant: Enco Development Corporation.
e. Name of Project: Yaak Falls Power.
f. Location: On Yaak River, within the Kootenai National Forest lands, near Troy, in Lincoln County, Montana.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Kenneth R. Koch, Enco Development Corporation, P.O. Box 5663, Bellingham, Washington 98227.
i. Comment Date: June 3, 1985.
j. Description of Project: The proposed project would consist of: (1) a 10-foot-high, 200-foot-long concrete diversion structure at an elevation of 2,435 feet; (2) a 700-foot-long, 90-inch-diameter low pressure pipeline; (3) a 150-foot-long, 90-inch-diameter steel penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 1,500 kW; and (5) a 5.5-mile-long, 115-kV transmission line connecting to an existing Bonneville Power Administration transmission line. The Applicant estimates an average annual energy production of 5.8 million 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 environmental feasibility studies and prepare an FERC license application at a cost of $250,000. No new roads would be constructed or drilling conducing during the feasibility study.

k. Purpose of Project: The project power would be sold to the Pacific Power and Light Company.
l. The notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

19 a. Type of Application: License for Transmission Line.
b. Project No: 8810–000.
c. Date Filed: December 20, 1984.
d. Applicant: Pacific Power and Light Company.
e. Name of Project: South Bend 69/115-kV Transmission Line.
f. Location: On the southern end of the City of Bend, in Deschutes County, Oregon.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. John Melnichuk, Vice President, Engineering and Technical Services, Pacific Power and Light Company, 920 S.W. Sixth Avenue, Portland, Oregon 97204.
i. Comment Date: May 8, 1985.
j. Description of Project: The proposed South Bend 69/115-kV Transmission Line will connect to the Central Oregon Irrigation District's proposed Central Oregon Siphon Power Project No. 3571 for which an application for license is pending. The proposed 1.11-mile-long transmission line will run approximately parallel to the Central Oregon Canal for 3,700 feet until intersection Blakely Road and the final 2,200 feet will run parallel to Blakely Road. The proposed line will be interconnected with the existing 69-kV Bend—Pilot Butte Transmission Line which is owned by the Applicant. No substation will be needed at the point of interconnection with the Bend—Pilot Butte Transmission Line. Three switches will be installed for connection to Project No. 3571. No Federally-owned lands are located with the project boundary.
k. Purpose of Project: The proposed transmission line will convey power generated at the Central Oregon Siphon Power Project No. 3571 to Applicant transmission line.
l. The notice also consists of the following standard paragraphs: B, C and D1.

20 a. Type of Application: Exemption (5 MW or less).
b. Project No.: 8640–000.
c. Date Filed: October 4, 1984.
d. Applicant: Havilah S. Hawkins and Joseph A. Sawyer.
e. Name of Project: Seabright Dam.
f. Location: Megunticook River in Knox County, Maine.
g. Filed Pursuant to: Energy Security Act of 1980 Section 408 (16 U.S.C. 2705 and 2708).
h. Contact Person: Mr. Havilah S. Hawkins, Box 798, Camden, Maine 04843.
i. Comment Date: May 13 1985.
j. Description of Project: The proposed project would consist of: (1) an existing 16-foot-high, 90-foot-long concrete dam owned by the Applicants; (2) an existing resevoir with a surface area of 85-acres, and a gross storage capacity of 970-acre-feet at elevation 127 feet m.s.l.; (3) a proposed powerhouse at the base of the dam containing a generating unit with a total rated capacity of 94-kW; (4) a proposed 300-foot-long transmission line tying into the existing Central Main Power Company system; and (50) appurtenant facilities. The Applicant estimates a 288,000 kWh average annual energy production.
k. 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.
l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

21 a. Type of Application: Major License (over 5 MW).
b. Project No.: 8511–000.
c. Date Filed: August 3, 1984.
d. Applicant: Seward Development-Red Rock Associates.
e. Name of Project: Red Rock Hydroelectric Water Power Project.
f. Location: On the Des Moines River in Marion County, Iowa.
g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Gary D. Bachman, VanNess, Feldman, Sutcliffe, Curtis, & Lavenberg, 1050 Thomas Jefferson Street, N.W., Washington, D.C. 20007, & Mr. James C. Katsekas, Rivers Engineering Corp., Route 2, Londonderry Professional Center, Londonderry, New Hampshire 03053.

i. Comment Date: May 10 1985.

j. Competing Application: Project No. 8261, Date Filed: April 24, 1984 Due Date: April 12, 1985.

k. Description of Project: The Applicant would utilize an existing dam and lands under the jurisdiction of the U.S. Army Corps of Engineers. The proposed project would consist of: (1) a proposed 300-foot-long, 200-foot-wide, and 38-foot-deep intake channel; (2) five proposed 12.5-foot-diameter steel penstocks, which would be approximately 523 feet long. The penstocks would extend from the intake structure through the west side of the existing dam to the proposed powerhouse; (3) a proposed powerhouse containing five generating units having a total installed capacity of 30 MW: (4) a proposed 100-foot-long tailrace; (5) a proposed 69-kV, one-half mile long transmission line; and (6) appurtenant facilities. The estimated average annual energy output for the project is 110,000,000 kWh.

l. Purpose of Project: Energy produced at the project would be sold to either the Pella Cooperative Electric Association, the Central Iowa Power Cooperative, or the Iowa Power Corporation.

m. This notice also consists of the following standard paragraphs: A4, B, C, & D1.

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 exemption application or a notice of intent to file such an application. Submission of a timely 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 COMPETING 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 statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issue relevant to the issuance of a 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 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.

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 to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues 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 to protect any fish and wildlife resources or 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 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: April 14, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8452 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-347-000, et al.]

Natural Gas Pipeline Co. of America, et al.; Natural Gas Certificate Filings

April 2, 1985.

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP85-347-000]

Take notice that on March 8, 1985, Natural Gas Pipeline Company of America (NGPA), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-85-347-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Chevron Chemical Company (Chevron), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

NGPL states that pursuant to a transportation agreement dated September 26, 1977, as amended January 11, 1985, among Trunkline Gas Company (Trunkline), NGPL and Chevron, NGPL proposes the following: (1) firm transportation of a daily quantity of natural gas equal to 75 percent of up to 10,000 Mcf of natural gas per day, the demand quantity, from West Cameron Blocks 533 and 534, offshore Louisiana, at a monthly demand charge equal to $34,300, (2) best-efforts transportation for each Mcf of overrun gas accepted by NGPL for transportation on behalf of Chevron from West Cameron Blocks 533 and 534, offshore Louisiana, to Cameron Parish, Louisiana, at a charge of 11.28 cents and (3) onshore transportation of the demand quantity and overrun gas from Cameron Parish, Louisiana, to Vermilion Parish, Louisiana, at rates based on NGPL's FERC Rate Schedule X-48.

It is stated that Chevron would deliver the gas to NGPL and Trunkline at the point of connection between their facilities and the producer facilities in West Cameron Blocks 533 and 534, offshore Louisiana. It is stated that NGPL and Trunkline would use their capacity in Stingray Pipeline Company's (Stingray) offshore pipeline system to transport the gas to an existing interconnection between NGPL and Stingray in Cameron Parish, Louisiana. NGPL indicates that it would then transport the volumes to United Gas Pipe Line Company for the account of Chevron at the outlet of NGPL's meter station near the Texaco Henry plant in Vermilion Parish, Louisiana.

It is stated that the proposed service would continue for a term of 15 years commencing on the date of first receipt of gas or until production terminates from West Cameron Blocks 532, 533 and 534, whichever is longer.

NGPL indicates that for the transportation and handling of Chevron's liquids and liquefiables, both NGPL and Trunkline would charge Chevron a monthly fee equal to 55.0 cents per barrel for liquids and 4.5 cents per Mcf for liquefiables transported 100 miles offshore, prorated to the actual mileage of offshore transportation.

Comment date: April 23, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-343-000]

Take notice that on March 6, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-85-343-000 an application pursuant to Section 7(b) of the Natural Gas Act for (1) permission and approval to abandon delivery of natural gas to Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), by reducing Peoples' entitlements; (2) and pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessary authorizing Applicant to sell and deliver said gas to a new customer and authorizing Applicant to realign certain volumes of winter peaking service (WPS) entitlements between existing delivery points for Peoples, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that one of the communities presently served by Peoples, the City of Lake Park, Iowa, has elected to discontinue the distribution service of Peoples and chose to make such distribution of natural gas a municipal function. Applicant further states that by agreement dated February 20, 1984, Peoples agreed to sell the Lake Park distribution system to the City of Lake Park. In order to meet Lake Park's natural gas needs, which is estimated to be 700 Mcf per day, Peoples is said to have agreed to reduce its receipt of natural gas from Applicant by 700 Mcf per day and assign such volumes to Lake Park. Applicant states it will sell and deliver the 700 Mcf per day of natural gas to Lake Park under its Rate Schedule CD-1. Peoples is said to have requested further that Northern realign 50 Mcf per day of WPS presently designated for delivery to Lake Park and make such volumes of WPS available at Estherville, Iowa.

The following sets forth, in Mcf, the changes in contract demand (CD) and WPS delivered to Peoples:

Peoples	Existing authority		Proposed changes		Proposed authority	
	CD	WPS	CD	WPS	CD	WPS
Estherville	4,447	1,013	(195)	50	4,252	1,063
Lake Park	505	50	(505)	(50)	0	0

The following sets forth, in Mcf, the proposed service to Lake Park:

City of Lake Park	Existing authority		Proposed changes		Proposed authority	
	CD	WPS	CD	WPS	CD	WPS
Lake Park	0	0	700	0	700	0

Comment date: April 23, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP85-370-000]

Take notice that on March 18, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-370-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Indiana Gas Company, Inc. (Indiana Gas), as agent for Knauf Fiber Glass (Knauf), under the certificate issued in Docket No. CP82-407-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport up to 2.3 billion Btu of natural gas per day on an interruptible basis for Indiana Gas, as agent for Knauf, until June 30, 1985, with an extension for a term to end no later than October 31, 1985, should the Commission extend the end-user transportation program beyond June 30, 1985. Texas Gas indicates that the gas to be transported would be purchased by Knauf from EnTrade Corporation (EnTrade) and would be used for low-

priority boiler fuel at Knauf's Shelbyville, Indiana, plant.

Texas Gas states that it would receive the gas for Knauf's account from EnTrade in Bossier Parish, Louisiana, and deliver it to Indiana Gas in Lawrence County, Indiana. It is indicated that Indiana Gas is the distribution company serving Knauf in Shelbyville, Indiana.

It is indicated Texas Gas would charge Indiana Gas its Rate Schedule TSC-3 rate for Rate Schedule G customers, currently 21.90 cents, plus a 1.25-cent GRI surcharge for each million Btu of natural gas transported. In addition Texas Gas states it would retain 2.57 percent of the gas delivered to it for fuel, company-use, and unaccounted-for gas.

Texas Gas also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Knauf. The flexibile authority requested would apply only to points related to sources of gas supply not to delivery points in the market area. Texas Gas would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: May 17, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP82-385-004]

Take notice that on March 13, 1985, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP82-385-004 a third amendment to its pending application filed on June 21, 1982, in Docket No. CP82-385-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect modifications to the proposed facilities as a result of an increase in the Canadian purchase and storage gas to be transported through such facilities, all as more fully set forth in the third amendment which is on file with the Commission and open to public inspection.

Applicant states that as a result of additional customer commitments for the Transco-Niagara Storage Service, as reflected in Docket No. CP82-503-003, demand for such service exceeded the levels of service for which Applicant was previously requesting authorization. Applicant states further that rather than allocate service among its customers, by amendment to storage agreements dated December 28, 1984, Applicant has entered into arrangements to provide the additional storage capacity of 5,700,000 Mcf and 100,000 Mcf per day withdrawal capability to meet fully its customers' stated demands for additional peak period gas supplies. Applicant states that the proposed Transco-Niagara Storage Service, as so expanded, would provide Applicant's customers with 25,700,000 Mcf of top storage capacity and 400,000 Mcf per day of withdrawal capability.

Applicant also states that it has entered into an amendment dated June 28, 1984, to its existing gas purchase contract with its Canadian supplier, Sulpetro Limited, which (1) modified the pricing terms in order to reflect flexible market responsive price provisions; (2) modified the quantity provisions to provide for an increase in the purchase quantities of 50,000 Mcf per day, to 125,000 Mcf per day, commencing November 1, 1987, with no stepdown in volumes during the later years of the import; and (3) extended the term of the import arrangement for an additional three years through 1994. Applicant further states that by Order No. 46-A issued October 3, 1984, in Docket No. 84-06-NG, the Economic Regulatory Administration approved the revised import arrangement finding such arrangement to be consistent with the Secretary of Energy's policy guidelines for the importation of natural gas and not inconsistent with the public interest.

Applicant states that as a result of the aforementioned amended gas purchase arrangement with Sulpetro Limited and the increase in levels of the proposed Transco-Niagara Storage Service, it is necessary and appropriate to increase the proposed expansion of Applicant's Leidy line and market area facilities. Applicant states further that as so modified, such new facilities would enable Applicant to deliver an additional 765,000 Mcf of natural gas per day to its sales and storage customers. In that regard, Applicant states that the necessary expansion of its Leidy line is now proposed to be accomplished as follows:

(1) construct 8.52 miles of 30-inch pipeline loop from Leidy storage field (Leidy M.P. 194.06) to Leidy M.P. 185.54;

(2) construct 26.10 miles of 36-inch pipeline loop from M.P. 0.00 to M.P. 26.10, parallel to the so-called Southern loop of the Leidy line;

(3) construct 56.45 miles of 36-inch pipeline loop frm Leidy M.P. 12.51 to Leidy M.P. 68.96;

(4) install an additional 15,000 horsepower of compression at Station 520; and

(5) install an additional 6,700 horsepower of compression at Station 515.

Applicant states that modifications to the proposed pipeline looping on Applicant's market area facilities are also required. Specifically, the following expansion of Applicant's market area facilities in Pennsylvania and New Jersey is now proposed:

(1) construct 32.04 miles of 24-inch pipeline looping of the 16-inch and 12-inch Trenton-Woodbury lateral from M.P. 4.79 to M.P. 36.83;

(2) construct 7.26 miles of 16-inch pipeline loop of the 16-inch and 8-inch Oreland and Ashmead Road laterals between the Oreland meter station and the Ashmead Road meter station;

(3) construct 1.74 miles of 10-inch pipeline loop of the 6-inch Trenton lateral from M.P. 4.79 to the Trenton meter station;

(4) construct 26.96 miles of 36-inch pipeline loop from M.P. 1789.53 to M.P. 1816.49 on the Caldwell loop;

(5) construct 4.91 miles of 36-inch pipeline loop from M.P. 1820.66 to M.P. 1825.57 on the Caldwell loop; and

(6) install a new compressor station consisting of 12,500 horsepower of compression on Applicant's mainline facilities near Princeton, New Jersey.

Applicant states that the estimated cost of the proposed Leidy line and market area facilities is $286,696,000.

Comment date: April 23, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP82-503-003]

Take notice that on March 13, 1985, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP82-503-003 a third amendment to its pending application filed in Docket NO. CP-82-503-000 pursuant to Section 7(c) of the Natural Gas Act, so as to reflect an increase in the level of service in order to meet its customers' stated needs for additional peak period gas supplies, and a reduction in the indicated initial rates for such service under Rate Schedule T-NSS as a result of reductions in the estimated unit costs and charges pertaining to such service, all as more fully described in the third amendment which is on file with the Commission and open to public inspection. Applicant states that the combination of the reduction in the current estimated unit cost of the proposed expansion of Applicant's Leidy line and market area

facilities for which an application for authorization is pending in Docket No. CP82–385–004 and the reduction in unit cost of upstream storage and transportation services, results in a reduction the indicated initial rates for service under Rate Schedule TNSS. In this regard, Applicant states that the indicated rates for Rate Schedule T–NSS service now are a monthly demand charge of $9.73 per dt of contract demand, a monthly capacity charge of 2.5 cents per dt equivalent of annual capacity and injection and withdrawal charges of 7.0 cents per dt equivalent, the derivation of which charges are set forth in third amended Exhibit P to the application.

Further, Applicant states that it has entered into arrangements for additional storage capacity and withdrawal capability in order to meet fully its customers' stated needs for additional peak period gas supplies. In this connection, Applicant states that under the current proposal Transco-Niagara Storage Service would provide its customers with 25,700,000 Mcf of storage capacity and up to 400,000 Mcf withdrawal capability. Therefore, Applicant states that it is necessary to modify the instant proposal to reflect the following storage customers and the indicated levels of service under Rate Schedule T–NSS (in dekatherms):

Customer	Capacity (Mcf)	Daily demand (Mef)
Algonquin Gas Transmission Co	4,200,000	40,241
Atlanta Gas Light Company	5,000,000	100,000
The Brooklyn Union Gas Company	1,005,000	14,722
City of Bowman, Georgia	6,000	100
City of Buford, Georgia	24,000	400
Elizabethtown Gas Company	1,000,000	24,537
City of Lawrenceville, Georgia	20,000	1,000
Long Island Lighting Company	1,500,000	14,722
Penn Gas & Water Company	1,580,000	22,182
Philadelphia Gas Works	500,000	8,179
Public Service Electric & Gas Co	8,071,000	140,813
Public Service Company of North Carolina	1,750,000	24,537
City of Social Circle, Georgia	6,000	200
South Jersey Gas Company	1,000,000	10,000
Tri-County Natural Gas Co	24,000	400

Applicant also notes that since Piedmont Natural Gas Company, Inc. (Piedmont), is unable at this time to provide a firm commitment for service, Applicant has deleted Piedmont from its request for authorization to render service under Rate Schedule T–NSS.

Comment date: April 23, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. Western Gas Interstate Company

[Docket No. CP85–396–000]

Take notice that on March 27, 1985, Western Gas Interstate Company (Western), 900 United Bank Tower, 400 W. 15th Street, Austin, Texas 78801, filed in Docket No. CP85–396–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authoring the construction and operation of certain minor facility changes to an existing compressor located on Western's West Line near Etter, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western requests authority to make minor changes to its existing Etter compressor in order to allow Western to make deliveries of cheaper gas available from sources on the southern portion of its West Line to customers on the northern portion of its West Line during periods of peak demand. Western estimates the cost of these facilities to be $3,000. Western indicates further that the propoed changes to its Etter compressor would allow it to offer cheaper gas to all its customers during this peak period.

Comment date: April 23, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.2050 a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–8451 Filed 9–8–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84V–0369 et al.]

Availability of Approved Variances for Sunlamp Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for sunlamp products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for certain specified sunlamps and sunlamp products manufactured or imported by six organizations. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The effective dates and termination dates of the variances are listed in the table below under "**SUPPLEMENTARY INFORMATION.**"

ADDRESS: The application and all correspondence on the applications have been placed on display in the

Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Summers, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CRF 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted each of the six organizations listed in the table below a variance from certain requirements of the performance standard for sunlamp products (21 CFR 1040.20). Approval has been granted to allow the listed products to vary from that portion of § 1040.20(c)(2)(ii) requiring the maximim timer interval for a sunlamp product to be 10 minutes or less. All other provisions of § 1040.20 remain applicable to the listed sunlamp products and ultraviolet lamps.

Each of the variances for the nominally ultraviolet-A (UVA) sunlamp products permits the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. CDRH's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturer does not result in severe, acute skin burns, or corneal injury. Therefore, the time interval requirement of § 1040.20(c)(2)(ii) is not appropriate for these UVA products. Even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk to chemically sensitized lenses or of cornea damage or of long-term development of lense opacities. This requirement remains.

CDRH has determined that suitable and/or alternate means of radiation protection are provided by constraints on the physical and optical design and by warnings in the user manual and on the products in lieu of the time interval requirement that was determined to be inappropriate. Therefore, on the affective dates specified in the table below, CDRH approved the requested variances by letter from the Deputy Director of CDRH to each manufacturer or importer.

So that the product may show evidence of the variance approved for the manufacturer or importer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number, and the effective date of the variance, both of which are specified in the table below.

Docket No.	Organization granted the variance	Sunlamp product	Effective date/ termination date
84V-0369	Rothschild Sunsystems, Inc., 125 Wolf Road, Suite 308, Albany, New York 12203.	UVA sunlamp products manufactured by Rothschild Sunsystems, Inc.	Dec. 28, 1984/ Dec. 28, 1989.
84V-0400	Klaus Industries Co., Inc., 6217 West Lake Street, Minneapolis, Minnesota 55416.	UVA sunlamp products manufactured by Klaus Industries Co., Inc.	Dec. 28, 1984/ Dec. 28, 1989.
84V-0420	Sunthetic Engineering, Inc., 1962 Fifth Avenue, Marion, Iowa 52302	UVA sunlamp products manufactured by Sunthetic Engineering, Inc.	Jan. 18, 1985/ Jan. 18, 1990.
84V-0423	Bainbridge Trading Co., Ltd., 210 Sound Beach Avenue, Old Greenwich, Connecticut 06870.	UVA sunlamp products manufactured by Helitron, Ltd., and imported by Bainbridge Trading Co., Ltd.	Jan. 16, 1985/ Jan. 16, 1990.
85V-0014	Solar Tan, Inc., 1101 Enterprise Avenue, Bay 9, Oklahoma City, Oklahoma 73128.	UVA sunlamp products manufactured by Solar Tan, Inc.	Feb. 11, 1985/ Feb. 11, 1990.
85V-0021	Ameritan, 5232 W. Center Street, Milwaukee, Wisconsin 53210	UVA sunlamp products manufactured by Ameritan.	Feb. 11, 1985/ Feb. 11, 1990.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiogical Health (21 CFR 5.86).

Dated: March 15, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–8396 Filed 4–8–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 84D–0428]

Availability of Compliance Policy Guide for Cytotoxic Testing for Allergic Diseases

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a compliance policy guide entitled "Cytotoxic Testing for Allergic Dieseases." This guide addresses the agency's regulatory position regarding the use of the cytotoxic test in the diagnosis of allergic diseases.

ADDRESS: A copy of the guide is available for public examination at, and comments and requests for single copies may be sent to, the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Alzena G. Darr, Center for Devices and Radiological Health (HFZ–323), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7208.

SUPPLEMENTARY INFORMATION: A number of Federal and State agencies which share responsibility for the regulation or licensure of medical testing laboratories are concerned about allergy clinics, health centers, and testing laboratories performing the cytotoxic test and promoting the test as effective in the detection of allergic diseases, particularly for food and food additives. The Health Care Financing Administration (HCFA) and the Federal Trade Commission (FTC) have asked FDA to assess the validity, accuracy, and effectiveness of "in vitro" cytotoxic testing as a diagnostic tool. FDA is concerned that businesses may begin distributing kits for cytotoxic testing for which efficacy has not been established.

This policy guide states that it is FDA's opinion that the cytotoxic test is

unreliable as a diagnostic tool and is not generally recognized by qualified experts as effective. The guide also addresses the agency's regulatory position that cytotoxic test kits marketed for use in the diagnosis of allergic diseases are adulterated and misbranded devices under the Federal Food, Drug and Cosmetic Act. The agency will consider appropriate regulatory action to enforce the statute should misbranded or adulterated kits be discovered.

The policy guide is available for public examination at, and requests for single copies may be sent to, the Dockets Management Branch (address above). In accordance with 21 CFR 10.85(d)(3) and (i), any person may submit written comments on the guide. Written comments may be sent to the Dockets Management Branch. 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. Although such comments will be considered if the guide is revised, the agency will not defer regulatory action pending any such revision.

Dated: April 2, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8275 Filed 4-8-85; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Migrant Health

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Billy Sandlin, Executive Secretary, National Advisory Council on Migrant Health, Room 7A-55, Parklawn Building, 5700 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Dated: April 3, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 85-8397 Filed 4-8-85; 8:45 am]

BILLING CODE 4160-15-M

Revision of Income Criteria for Eligibility for Uncompensated Services

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces the applicability of the recent revision of the Poverty Income Guidelines to uncompensated services programs administered by health care facilities pursuant to Titles VI and XVI of the Public Health Service Act.

DATE: The revision of the guidelines must be implemented by affected facilities on May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Martin J. Frankel, Director, Division of Facilities Compliance, Office of Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 11-19, Rockville, Maryland 20857, Telephone 301-443-6512.

SUPPLEMENTARY INFORMATION: On March 8, 1985, [50 FR 9517] with a correction published on March 14, 1985 [50 FR 10319], the annual revision of the Poverty Income Guidelines was issued, effective upon publication in the **Federal Register.** That revision affects, among others, health care facilities that have received construction assistance under Title VI or Title XVI of the Public Health Service Act, 42 U.S.C. 291, et seq., and 42 U.S.C. 300q, et seq., respectively. The regulations applicable to those facilities provide that the eligibility of persons for uncompensated services is to be determined in accordance with the currently Poverty Income Guidelines of the Department of Health and Human Services, formerly published by the Community Services Administration (CSA). See 42 CFR. 124.506(a). The statute which gave this Department authority to revise the guidelines also provides that any reference to the Poverty Income Guidelines constitutes a reference to, in this case, the present revision [Pub. L. 97-35, 683(c)(1)]. A discussion of the basis for delaying the effective date can be found in the **Federal Register**, Volume 47, No. 79, page 17489, published on April 23, 1982.

Dated: April 3, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85-8398 Filed 4-8-85; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

Arthritis, Diabetes, and Digestive and Kidney Diseases Special Grants Review Committee and Cancer Biology-Immunology Contracts Review Committee; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the establishment by the Secretary of Health and Human Services of the Arthritis, Diabetes, and Digestive and Kidney Diseases Special Grants Review Committee, and the establishment of the Cancer Biology-Immunology Contracts Review Committee by the Director, National Cancer Institute, under the authority of section 405(a)(2) of the Public Health Service Act (42 U.S.C. 286(a)(2).

The Arthritis, Diabetes, and Digestive and Kidney Diseases Special Grants Review Committee shall provide advice to the Seretary; the Assistant Secretary for Health; the Director, National Institutes of Health; and the Director, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, concerning the review of research grant and National Research Service Award applications.

The Cancer Biology-Immunology Contracts Review Committee shall advise the Director, National Cancer Institute, and the Directors of the Divisions of Cancer Treatment, Cancer Etiology, Cancer Biology and Diagnosis, and Cancer Prevention and Control, concerning the technical scientific merit of proposals relating to biology, microbiology (including virology), and immunology of cancer.

Authority for these committees shall terminate two years from the date of establishment, unless renewed by appropriate action as authorized by law.

Dated: March 29, 1985.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 85-8419 Filed 4-8-85; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Systems Agencies and State Health Planning Development Agencies; Certificate of Need Reviews

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Notice regarding adjustment of the expenditure minimum for capital expenditures and the expenditure minimum for annual operating costs.

SUMMARY: This notice provides necessary information for each State which chooses to adjust the capital expenditure and annual operating cost expenditure minimums that are used to determine whether proposals are subject to review under a State's certificate of need program. The notice also provides guidance to assist a State Health Planning and Development Agency (State Agency) in determining the exact minimum dollar figure it will use and in seeking further information.

FOR FURTHER INFORMATION CONTACT: John F. Belin, Director, Division of Agency Operations and Management, Office of Health Planning, Bureau of Health Maintenance Organizations and Resources Development, Health Resources and Services Administration, 5600 Fishers Lane—Room 9A–21, Rockville, Maryland 20857, Telephone 301 443–6680.

SUPPLEMENTARY INFORMATION: The Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79) as amended by the Health Programs Extension Act of 1980 (Pub. L. 96–538) and the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) require the Secretary to designate by regulation: (1) An index maintained or developed by the Department of Commerce which could be used by States to adjust the minimum threshold for capital expenditures and (2) an index which could be used by States to adjust the minimum threshold for annual operating costs in the State certificate of need programs. Pub. L. 97–35 also raised the minimum threshold for capital expenditures to $600,000 and for annual operating costs to $250,000 effective October 1, 1981. The Secretary designated the Department of Commerce Composite Construction Cost Index for both threshold adjustments in the certificate of need final regulations published October 31, 1980 (42 CFR 123.401). Threshold adjustments are based on the change in the index from October 1 of one year to October 1 of the next year. Application of the yearly change in the index is compounded from 1979, the base year for threshold adjustments, to 1984. This notice provides the change in the Department of Commerce Composite Construction Cost Index from October 1, 1979 to October 1, 1984. On October 1, 1979, the index was fixed at 133.4. On October 1, 1984, the index was fixed at 163.7. This 30.3 point change represents a 22.7 percent increase. States which are authorized to adjust the capital expenditure and operating cost expenditure minimums may increase them up to 22.7 percent, resulting in a capital expenditure minimum threshold of $736,200 and an annual operating cost minimum threshold of $306,750.

Dated: April 3, 1985

John H. Kelso,

Acting Administrator.

[FR Doc. 85–8399 Filed 4–8–85; 8:45 am]

BILLING CODE 4160–16–M

National Committee on Vital and Health Statistics and National Center for Health Statistics Conference

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, will sponsor in cooperation with the National Center for Health Statistics a 2-day conference on the tenth revision of the International Classification of Diseases (ICD–10) to convene on Wednesday, May 1 and Thursday May 2, 1985 from 9:30 a.m. to 5:00 p.m. at the Lister Hill Auditorium, National Institutes of Health campus, Bethesda, Maryland.

The purpose of the conference will be to strengthen communication lines within the United States among all those organizations and individuals who have an interest in the ICD and particularly with the National Center for Health Statistics and its WHO Collaborating Center for Classification of Diseases for North America. There will be discussions of the process and timetable for developing draft proposals to be submitted to the World Health Organization. We expect to identify the appropriate organizations to serve as focal points for particular ICD–10 chapters and to provide an opportunity for those present to express their views on general issues.

Further information regarding this meeting may be obtained by contracting Dr. Gail F. Fisher, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: April 2, 1985.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 85–8502 Filed 4–8–85; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Office of Administrative Services in the Office of the Secretary. The notice titled "Secretarial Subject Files—Interior, Office of the Secretary–46" is being revised to reflect functional realignments which have occurred since its previous publication in the **Federal Register** on May 3, 1983 (48 FR 19946). The descriptions of the system location and system manager have been appropriately updated. The revised notice is published in its entirety below, and is effective April 9, 1985.

Dated: March 28, 1985.

Oscar W. Mueller, Jr.,

Director, Office of Information, Resources Management.

INTERIOR/OS–46

SYSTEM NAME:

Secretarial Subject Files—Interior, Office of the Secretary—46.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Division of General Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those who have had correspondence with the Office of the Secretary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Index cards containing the name, dates, and subject codes for retreival of subject files, subject files of correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 43 U.S.C. 1457, 44 U.S.C. 3101, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are to support the operational, program and policy decisions of the Secretary of the Interior, Under Secretary, Solicitor, Assistance Secretaries. Disclosures outside the department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3" x 5" index cards correspondence filed in folders.

RETRIEVABILITY:

Indexed by subject.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of General Services (PMO), Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her.

RECORD ACCESS PROCEDURE:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addresed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Correspondence or documents signed at the Secretarial level.

[FR Doc. 85-8432 Filed 4-8-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Plan for the Use and Distribution of the Fort McDermitt Paiute and Shoshone Tribe of Indians Judgment Funds in Docket 87-D Before the United States Claims Court

March 28, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on July 18, 1983 in satisfaction of the award granted to the Fort McDermitt Paiute and Shoshone Tribe of Indians before the United States Claims Court in Docket 87-D. The plan for the use and distribution of the funds wa submitted to the Congress with a letter dated July 16, 1984, and was received (as recorded in the Congressional Record) by the Senate on July 25, 1984, and by the House of Representatives on July 23, 1984. The plan became effective on January 21, 1985, as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

The funds of the Fort McDermitt Paiute and Shoshone Tribe, appropriated July 18, 1983, in Docket 87-D before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as follows:

Per Capita Payment Aspect

Eighty (80) percent of the funds shall be distributed in the form of per capita payments by the Secretary of the Interior (hereinafter the "Secretary") in sums as equal as possible to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

Twenty (20) percent of the funds, and any amounts remaining from the per capita payment provided above, shall be invested by the Secretary and utilized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for tribal social and economic development programs.

General Provisions

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, 96 Stat. 2512.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-8410 Filed 4-8-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Coeur d'Alene District Office; Sales of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Competitive, and Direct Sale Offerings of Public Lands in Bonner, Kootenai, Shoshone, Idaho and Latah Counties, Idaho; correction.

SUMMARY: In FR Doc. 85-3554 beginning on page 6061 in the issue of Wednesday, February 13, 1985, make the following corrections: On page 6061, third column in the table, under Legal description for Tract No. I-6-39, (R.1W.) should read (R.2W.). Under Legal description for Tract No. I-6-223, (Lot 4) should read (Lot 1). Under Legal description for Tract No. I-6-224, (Lot 14) should read (lot 13).

Dated: April 1, 1985.

Wayne Zinne,

District Manager.

[FR Doc. 85-8423 Filed 4-8-85; 8:45 am]

BILLING CODE 4310-GG-M

Filing of Plat of Survey, New Mexico

March, 12, 1985.

The plats of the survey described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on March 12, 1985.

The dependent resurvey and subdivision of section T. 9 S., R. 26 E. under Group No. 835, approved February 15, 1985, and the dependent resurvey of lots in T. 20 N., R. 9 E., under Group No. 781, approved February 13, 1985, NMPM, NM.

This survey was requested by Roswell and Albuquerque Districts, Bureau of Land Management, respectively.

The plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-8417 Filed 4-8-85; 8:45 am]

BILLING CODE 4310-FB-M

Sale of Public Lands; Siskiyou County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public Lands in Siskiyou County, California.

SUMMARY: The following described public lands have been examined, and through the development of land use planning decisions based upon public input, resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, and approved Redding Resource Area Land Use Plans.

Sale will be by sealed bid only. In no case shall lands be sold for less than the appraised fair market value. The following public lands will be offered for sale on June 25, 1985, at 1:00 p.m., unsold parcels will remain available pending disposition as cited in this notice.

MOUNT DIABLO BASE AND MERIDIAN, SISKIYOU COUNTY, CALIFORNIA

Case No.	Parcel No.	Sale method [1]	Legal description	Acres	Fair market value
CA 16478	1	M	T. 41 N., R. 8 W., Sec. 8, NW¼NW¼	40	$40,000
CA 16479	2	D	T. 41 N., R. 8 W., Sec. 14, NW¼NW¼	40	7,600
CA 16480	3	M	T. 42 N., R. 5 W., Sec. 18, SW¼NE¼	40	10,000
CA 16481	4	M	T. 42 N., R. 5 W., Sec. 18, W½SW¼NE¼NE¼SE¼, W½NE¼SE¼, W½SE¼NE¼SE¼.	26.25	5,250
CA 16482	5	M	T. 43 N., R. 6 W., Sec. 12, NE¼NW¼	40	7,600
CA 16483	6	D	T. 43 N., R. 6 W., Sec. 12, SE¼SW¼, SW¼SE¼	80	15,200
CA 16484	7	M	T. 44 N., R. 8 W., Sec. 32, Lot 1	5.18	3,000
CA 16485	8	M	T. 45 N., R. 4 W., Sec. 8, N½NW¼	80	15,200
CA 16486	9	M	T. 48 N., R. 2 W., Sec. 34, SW¼SE¼	40	13,500
CA 16487	10	C	T. 43 N., R. 6 W., Sec. 18, Lots 1, 2, 3, and 4	58.57	17,000
CA 16488	11	C	T. 43 N., R. 6 W., Sec. 30, Lots 1, 2, 3, and 4	49.89	75,000
CA 16489	12	M	T. 42 N., R. 5 W., Sec. 4, NE¼SW¼, NW¼SE¼	40	4,000
CA 16490	13	M	T. 42 N., R. 5W., Sec. 4, NE¼SW¼, NW¼SE¼	80	8,000
CA 16491	14	C	T. 42 N., R. 5 W., Sec. 24, N½NE¼	80	48,000
CA 16492	15	M	T. 43 N., R. 5 W., Sec. 34, SE¼SW¼, SW¼SE¼	80	8,000
Total				777.69	

[1] D—Direct, M—Modified Competitive, C—Competitive.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands described are hereby segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

Sale methodology will be pursuant to FLPMA and existing policy, laws, and regulations pertaining to disposal of public lands. Current policy madates all public sales be conducted by *sealed bid only*. Disposal may be by competitive, modified competitive (designated bidder(s) shall be offered the right to meet the highest bid), or by direct sale (non-competitive), if justified by criteria cited in 43 CFR 2711.3-3. BLM may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, cosummation of the sale would not be in the best interest of the United States.

Those parcels identified for sale by modified competitive bidding will include designation of a bidder(s). The designated bidder(s) will have the right to meet the highest apparent bid for the affected parcel. Refusal or failure to meet the highest bid, at the time of the sale, shall constitute a waiver of this provision. Direct sales will be offered to the designated bidder without competition.

Each parcel will be offered individually for sale by sealed bid only. Sealed bids will be opened and recorded at a public sale to be held on June 25, 1985, at 1:00 p.m., in the first floor Conference Room, Klamath National Forest Headquarters Office, U.S. Forest Service, 1312 Fairlane Road, Yreka, California. Sealed bids shall be considered only if received by 10:00 a.m. on June 25, 1985, at the Redding Resource Area Office, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002, or hand carried to a Bureau of Land Management representative in the Conference Room, Klamath National Forest Headquarters, U.S. Forest Service, 1312 Fairlane Road, Yreka, California from 10:00 a.m. until commencement of the sale at 1:00 p.m. Interested parties and the public in general may attend all sales, where sealed bids will be opened and the parcels sold.

Unsold parcels will be available competitively by sealed bids only until sold, withdrawn, or segregation terminates. Subsequent public sales will be held on the first Wednesday of each month at 10:00 a.m. at the Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on the date of sale.

Each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of Interior—BLM for not less than 20 percent (20%) of the bid. The sealed bid envelopes must be marked on the front left corner "Redding Resource Area, Siskiyou Land Sale, Parcel Number_____

If 2 or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental biddings. The desingnated high bidders shall be allowed to submit oral or sealed bids as designated by the Authorized Officer.

The successful bidder shall submit the remainder of the full bid price prior to the expiration of 180 days from the date of sale. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited. The next high bid will then be honored.

A bid will also constitute an application for conveyance of those mineral interests offered for conveyance in the sale. The mineral interests being offered for conveyance have no known mineral value, except on Parcel Number

9, where the United States will reserve the oil and gas estate (due to oil and gas lease CA 11898). The declared high bidder will be required to deposit immediately a $50.00 non-refundable filing fee (43 CFR 2720.1-2(c) (in addition to the required twenty percent (20%) bid deposit), and the mineral estate will be sold simultaneously with the surface estate. Failure to deposit this filing fee will result in disqualification as the high bidder.

Sale terms and conditions are as follows:

A. Reservations to the United States—there are hereby excepted from These Land Patents and reserved to the United States the following:

A right-of-way on the property for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

Parcel #1—A right-of-way and all appurtenances thereto, by Permit #S 045263, issued in perpetuity to the United States (Federal Aviation Administration), under the authority of 44 LD 513.

Parcel #4—A Right-of-Way S 080196, to the State of California, Department of Highways, for Interstate 5, under the Federal Aid Highway Act of August 27, 1958, as amended; 23 U.S.C. 317 (1964).

Parcel #7—A right-of-way to the State of California (State Highway 3) by Permit #S 051053, under the Act of November 9, 1921, (42 Stat. 212 23 U.S.C. 18). Including such additional uses as authorized by the State of California within the highway right-of-way pursuant to Utilities Encroachment Permit #270-U-780804 issued to Pacific Power and Light Company; and to Siskiyou Telephone Company pursuant to Utility Encroachment Permits #277-U-780805 and 277-U-781805.

Parcel #9All the oil and gas shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

Parcel #14—The right to itself, its permittees or licensees, to enter upon, occupy or use, any part or all of said land within Power Project No. 960 in the NE¼NE¼ of said Section 24 for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended 16 U.S.C. 818.

B. Rights of the Third Parties—The conveyance made by these Land Patents are subect to all valid existing rights, including the following:

Parcel #1—

1. Those rights for electric transmission line purposes as have been granted to Pacific Power and Light Company, by Permit #S 046581, under the Act of March 4, 1911, (43 U.S.C. 961).

2. The successful bidder agrees that he takes the real estate subject to the existing grazing use of Quentin J. Tobias, holder of grazing authorization No. 3130. The rights of Quentin J. Tobias to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 3130 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from Quentin J. Tobias in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**.

3. Those rights for road purposes as have been granted to Siskiyou Cablevision, Inc., by Permit #CA 16499, under the Act of October 21, 1976, (43 U.S.C. 1761).

Parcel #7—

1. Those rights for access road purposes as have been granted to Junior L. and Margaret Coppock, by Permit #CA 8561, under the Act of October 21, 1976, (43 U.S.C. 1761).

Parcel #9—

1. Those rights granted by oil and gas lease CA 11898, under the terms and provisions of the Act of February 25, 1920, (41 Stat. 437, 30 U.S.C. 181, as amended).

Parcel #11—

1. Those rights for distribution line purposes as have been granted to Pacific Power and Light Company, by Permit #CA 9035, under the Act of October 21, 1976, (43 U.S.C. 1761).

2. Those rights for access road purposes as have been granted in perpetuity to John H. and Mary Linville by Permit #CA 14737, under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for access road purposes as have been granted in perpetuity to Kenneth D. and Rose M. Cochran, by Permit #CA 16493, under the Act of October 21, 1976, (43 U.S.C. 1761).

Parcel 14—

1. Those rights for electric transmission line purposes as have been granted to Pacific Power and Light Company, by Permit #CA 9034, under the Act of October 21, 1976, (43 U.S.C. 1761).

2. Those rights for telephone and telegraph line purposes as have been granted to Pacific Bell, by Permit #S 036666, under the Act of March 4, 1911, (43 U.S.C. 961).

C. All bidders must be United States citizens; corporations must be authorized to own real property in the State of California; political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany bids.

D. Upon disqualification of an apparent high bidder, the next high bid will be honored. Bids will only be considered if they are made for not less than fair market value of the land, and bids must include all of the land in the parcel.

Detailed information concerning the sale, including the environmental assessment and land report are available for review at the Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002.

DATE: Comments should be sent to the following address no later than May 15, 1985.

ADDRESS: Comments and suggestions should be sent to: State Director, California State Office, Bureau of Land Management Federal Office Building 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination for the Bureau of Land Management.

FOR FURTHER INFORMATION CONTACT: Robert J. Bainbridge, (916) 246-5325.

Robert J. Bainbridge,

Redding Area Manager.

[FR Doc. 85-8506 Filed 4-8-85; 8:45 am]

BILLING CODE 4310-40-M

Final Resource Management Plan/ Environmental Impact Statement for the Northeast Resource Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Final Resource Management Plan/ Environmental Impact Statement (RMP/ EIS) for the Northeast Resource Area, Canon City District, Colorado.

SUMMARY: The Final RMP/EIS for the Northeast Resource Area, Colorado is available for the public. The RMP/EIS analyzes the potential impacts of a proposed management plan for approximately 40,000 acres of public land and approximately 615,000 acres of federal minerals underlying state or

private surface. A 30-day protest period is provided as required by BLM planning regulations (43 CFR 1610.52).

DATE: The protest period ends May 24, 1985.

ADDRESS: Protests should be sent to: BLM Director, Bureau of Land Management, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Frank Young, Area Manager, Bureau of Land Management, Northeast Resource Area, Denver Federal Center, Bldg. 41, Denver, CO 80225, telephone (303) 236–4399.

SUPPLEMENTARY INFORMATION: Approval of the RMP will permit implementation of the proposed plan. The proposed plan establishes interim multiple use management for approximately 40,000 acres of public land and final minerals management for approximately 615,000 acres of federal mineral estate. The 40,000 acres of public land are scheduled for disposal out of BLM administration to improve management efficiency.

The document is available from the Northeast Resource Area Office at the above address. Copies are also at local libraries in northeast Colorado. Persons who have participated in this planning process and have interests which may be adversely affected may protest approval of the plan.

Protests should be made to the BLM Director with the following information:

1. Name, mailing address, telephone number, and interest of the person filing the protest.
2. A statement of the issue or issues being protested.
3. A statement of the part or parts being protested.
4. A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record.
5. A concise statement explaining why the protesting party disagrees with the BLM Colorado State Director's decision.

Dated: April 3, 1985.

Kannon Richards,

Bureau of Land Management, State Director.

[FR Doc. 85–8503 Filed 4–8–85; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 692014

Applicant: Fred Davenport, Omaha, NE

The applicant requests a permit to import one sport-hunted trophy of bontebok (*Damilisus dorcas dorcas*) culled from the herd of Phil van der Merwe, Republic of South Africa, for enhancement of the survival of the herd.

PRT 692275

Applicant: Tennessee Valley Authority, Knoxville, TN

The applicant requests a permit to take 15 clutches of embryos or glochidia each year of Cumberland monkey face pearly mussels (*Quadrula intermedia*) and dromedary pearly mussels (*Dromus dromas*) from the Powell River, TN and VA, for scientific research (determining fish host).

PRT 691879

Applicant: Duke University Primate Center, Durham, NC

The applicant requests a permit to import two captive born male lesser mouse lemurs (*Microcebus murinus*) from the Skansen Aquarium, Stockholm, Sweden, for enhancement of propagation.

PRT 691894

Applicant: International Society for Krishna, Consciousness, New Vrindavan Community, Moundsville, WV

The applicant requests a permit to import 2 female Asiam elephants from the ISKC, Sri Mayapur, Nadia, India for enhancement of propagation through public exhibition.

PRT 691901

Applicant: Don Holt, Ingram, TX

The applicant requests a permit to import one sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) culled from the herd of Phil van der Merwe, Republic of South Africa, for enhancement of survival of the herd.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 100 North Glebe Road, Arlington, Virginia 22201), or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 4, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85–8438 Filed 4–8–85; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the regulations governing marine mammals (50 CFR Part 18).

Applicant Name: Seattle Aquarium, Pier 59, Seattle, WA 98101; File No. 691770

Type of Permit: Public Display

Name and Number of Animals: Alaskan sea otter (*Enhydra lutris*), 1

Summary of Activity to be Authorized: The applicant proposes to import this animal for the purpose of public display.

Source of Marine Mammals for Public Display: This animal was born at the Vancouver Public Aquarium, Canada on APR 19, 1983.

Period of Activity: 1 year

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application(s) are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: April 3, 1985.

R.K. Robinson,

Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 85–8439 Filed 4–8–85; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil & Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the availability of environmental documents prepared OCS mineral exploration proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/operator	Location	Date
Sun Oil Company, five exploratory wells, OCS-G 6260; SEA No. N-1917.	High Island Area, East Addition, South Extension, Block A-388; 120 miles southeast of the Texas coast.	Feb. 1, 1985.
Chevron U.S.A. Inc., three exploratory wells, OCS-G 6438; SEA No. N-1975.	Destin Dome Block 422; 64 miles southwest of Panama City, FL.	Feb. 22, 1985.
Chevron U.S.A. Inc., five exploratory wells, OCS-G 6414, 6415, and 6416; SEA No. N-2015.	Destin Dome Blocks 116, 158, and 159; 47 miles southwest of Panama City, Florida.	Mar. 22, 1985.
Amoco Production Company, eight exploratory wells, OCS-G 6422; SEA No. N-2028.	Destin Dome Block 204; 56 miles southwest of Panama City, FL.	Mar. 28, 1985.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor (LE), Leasing and Environment, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838-2755.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: April 1, 1985.

John L. Rankin,

Regional Director Gulf of Mexico OCS Region.

[FR Doc. 85-8507 Filed 4-8-85; 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 March 30, 1985. 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 April, 24, 1985.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Fairfield County

Stratford, *Boothe Homestead*, Main St. Putney

NEW JERSEY

Atlantic County

Hamilton Township, *Weymouth (schooner)*

Hudson County

Jersey City, *Jersey City Medical Center*, Roughly bounded by Baldwin, Cornelison and Fairmont Aves., Clifton Pl. and Montgomery St.

Jersey City, *Paulus Hook Historic District (Boundary Increase)*, Roughly bounded by York, Green, Essex and Henderson

NORTH CAROLINA

Forsyth County

Winston-Salem, *Blair, William Allen, House*, 210 S. Cherry St.

Catawba County

Hickory, *Claremont High School Historic District (Hickory MRA)*, Roughly bounded by 5th and 3rd Aves., 3rd St., 2nd Ave. and N. Center St.

Hickory, *Kenworth Historic District (Hickory MRA)*, Roughly bounded by 2nd Ave., 5th St. and 3rd Ave. Dr. SE

Hickory, *Oakwood Historic District (Hickory MRA)*, Roughly bounded by Oakwood Cemetery, 4th St., 2nd, 3rd and 4th Aves. and 6th St. NW

Hickory, *Second Street Place Southwest Historic District (Hickory MRA)*, Roughly bounded by Main Ave. Pl., 2nd Ave. Pl. and 1st Ave. SW

Chowan County

Edenton Vicinity, *Sandy Point*, Off NC 32 East of NC 1114

Durham County

Durham, *Bright Leaf Historic District (Durham MRA)*, Roughly bounded by Minerva Ave., N & W RR, Washington, Morris and Great Jones Sts., Southern Railway and S. Duke St.

Durham, *Duke Memorial United Methodist Church (Durham MRA)*, 504 W. Chapel Hill St.

Durham, *Durham Cotton Mills Village Historic District*, Roughly bounded by Byrd and Middle Sts., E. Frontage Rd. and Reservoir St.

Durham, *Durham Hosiery Mills #2-Service Printing Company Building (Durham MRA)*, 504 E. Pettigrew St.

Durham, *Emmanuel AME Church (Durham MRA)*, 710 Kent St.

Durham, Ephphatha Church (Durham MAR), 220 W. Geer St.

Durham, *Golden Belt Historic District (Durham MRA)*, Roughly bounded by Norfork & Western RR, Taylor and Holman Sts., Morning Glory Ave. and Main St.

Durham, *Morehead Hill Historic District (Durham MRA)*, Roughly bounded by Jackson St., East-West Expressway, S. Duke St., Lakewood Ave., Shephard St. and Arnette Ave.

Durham, *North Carolina Central University (Durham MRA)*, Bounded by Lawson St., Alston Ave., Nelson St. and Fayetteville St.

Durham, *O'Brien, William Thomas, House (Durham MRA)*, 820 Wilkerson Ave.

Durham, *Pearl Mill Village Historic District (Durham MRA)*, 900 Blk. of Washington and Orient Sts. between Trinity and Dacien Aves.

Durham, *Powe House (Durham MRA)*, 1503 W. Pettigrew St.

Durham, *Scarborough House (Durham MRA)*, 1406 Fayetteville St.

Durham, *Smith Warehouse*, 100 N. Buchanan Blvd.

Durham, *Trinity Historic District (Durham MRA)*, Roughly bounded by Green, Duke and Morgan Sts., Buchanan Blvd. and Markham St.
Durham, *Venable Tobacco Company Warehouse*, 302–304 E. Pettigrew St.
Durham, *Warren, Stanford L., Library (Durham MRA)*, 1201 Fayetteville St.
Durham, *West Durham Historic District (Durham MRA)*, Roughly bounded by Knox, Ninth, W. Main, Rutherford and Hale Sts.
Durham, *West Point on the Eno (Durham MRA)*, Roxboro Rd.

Guilford County

Greensboro, *Greensboro Historical Museum*, 130 Summit Ave.

Harnett County

Lillington vicinity, *Summer Villa and the McKay-Salmon House*, SR 1291.
Lillington vicinity, *Summerville Presbyterian Church and Cemetery*, Off SR 1291.

Hertford County

Ahoskie, *Ahoskie Downtown Historic District*, Roughly bounded by W. North St., Seaboard Coastline RR, W. Main St., S. and N. Mitchell Sts.

Johnston County

Benson, *Benson Historic District*, Roughly bounded by E. Hill, N. Lee, E. Parish and Farmers Dr. on Main and Church Sts.

Jones County

Pollocksville, *Lavender, Bryan, House*, Off US 17 South of Trent River Bridge.

Wake County

Raleigh, *Boyland Heights (Early Twentieth Century Raleigh Neighborhoods TR)*, Roughly bounded by Norfolk & Southern RR, Mountford, Martin and Florence Sts. and Dorothea Dr.
Raleigh, *Cameron Park (Early Twentieth Century Raleigh Neighborhoods TR)*, Roughly bounded by Clark Ave., W. Peace and Saint Mary's Sts., College Pl., Hillsborough St. and Oberlin Rd.
Raleigh, *Glenwood (Early Twentieth Century Raleigh Neighborhoods TR)*, Roughly bounded by Wade Ave., Norfolk and Southern Railway, Belmont St., and Glenwood Ave.

Washington County

Plymouth, *Perry-Spruill House*, 326 Washington St.

WYOMING

Fremont County

Atlantic City, *Atlantic City Mercantile*, Rt. 62, Box 260.

Sublette County

Boulder vicinity, *Steele Homestead*, WY 191.

Sweetwater County

McKinnon vicinity, *Stewart, Elinore Pruitt, Homestead*, Off UT 414.

Uinta County

Evanston vicinity, *Young, Brigham, Oil Well*.

[FR Doc. 85–8514 Filed 4–8–85; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the thirteenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on May 9 and 10, 1985.

The purpose of the meeting is to assist A.I.D. in implementing the components of the Title XII program by providing a two-way communications link for concerns of A.I.D. and concerns of the universities. During this meeting JCARD will review the International Research Center programs; take action on a proposed extension of the Tropical Soils Collaborative Research Support Program (CRSP); and receive a report on plans in the Human Capital Development area. Also, the Executive Committee will lead a discussion on the organization and structure of JCARD.

JCARD will meet from 1:00 p.m. to 5:00 p.m. on May 9 and from 9:00 a.m. to 1:00 p.m. on May 10. The meeting will be held in the Cardinal Room, Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–7332.

Dated: April 3, 1985.

John Stovall

A.I.D. Advisory Committee Representative Joint Committee on Agricultural Research and Development Board for International Food and Agricultural Development.

[FR Doc. 85–8515 Filed 4–8–85; 8:45 am]
BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30615]

Railcarriers; Columbus & Greenville Railway Co., Greenville Holding Company, and Cagy Transportation—Exemption From 49 U.S.C. 10901, 11301, 11343, 11344, and 11345

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts (1) from 49 U.S.C. 11343 *et seq.* the purchase and operation by Columbus & Greenville Railway Company (C&G) of three rail lines totalling 63.9 miles in western Mississippi; (2) from 49 U.S.C. 10901 the subsequent acquisition of these rail lines by Greenville Holding Company through assignment, and (3) from 49 U.S.C. 11301 the guaranty by C&G of the promissory note obligation to finance in part the transaction.

DATES: This exemption is effective on April 5, 1985. Petitions to reopen must be filed by April 29, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30615 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Robert J. Corber, Steptoe & Johnson, 1330 Connecticut Ave., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: April 1, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85–8516 Filed 4–8–85; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

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

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration
Report of Construction Contractor's Wage Rates
1215-0046; WD-10
On occasion
Businesses or other for-profit; Small businesses or organization
75,000 responses; 18,750 hours; 1 form

Form WD-10 is used by the U.S. Department of Labor to elicit construction project data from contractor associations, contractors and unions. The wage data is used to determine locally prevailing wages under the Davis-Bacon and Related Acts.

Extension

Mine Safety and Health Administration
Escapeways and Escape Facilities
1219-0052
Weekly
Businesses and other for profit; small businesses or organizations
2,075 respondents; 155,210 hours

Standard requires that escapeways from underground coal mines be examined for hazardous conditions each week. Records are required to be kept of the results of the examinations.

Signed at Washington, D.C. this 4th day of April 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-8512 Filed 4-8-85; 8:45 am]

BILLING CODE 4510-27-M; 4510-43-M

Employment and Training Administration

[TA-W-15,611]

Miller Shoe Co., Cincinnati, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on February 27, 1985, applicable to all workers of the Miller Shoe Company, Cincinnati, Ohio. The Notice of Certification was published in the **Federal Register** on March 15, 1985 (50 FR 10549).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The additional information revealed that substantial layoffs occurred several weeks after the termination date set in the Department's certification.

The intent of the certification is to cover all workers to the Cincinnati, Ohio plant of the Miller Shoe Company who were affected by the decline in the sales or production of women's shoes related to increased import competition. The notice, therefore, is amended by providing a new termination date of April 1, 1985.

The amended notice applicable to TA-W-15,611 is hereby issued as follows:

All workers of the Miller Shoe Company, Cincinnati, Ohio who became totally or partially separated from employment on or after November 19, 1983 and before April 1, 1985 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of March 1985.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 85-8511 Filed 4-8-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,534]

ASARCO, Inc., Tacoma Smelter, Tacoma, WA; Affirmative Determination Regarding Application for Reconsideration

By an applicable dated March 14, 1985, after being granted a filing extension, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Workers Adjustment Assistance on behalf of workers and former workers of ASARCO's smelter in Tacoma, Washington. The determination was published in the **Federal Register** on January 30, 1985 (50 FR 4283).

The application claims, among other things, that ASARCO's refinery in Amarillo, Texas, which is the end user of Tacoma's production, imported blister copper. It is also claimed that the refining of copper through toll customer arrangements had an adverse impact on smelter operations.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, D.C., this 28th day of March 1985.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 85-8508 Filed 4-8-85; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 25, 1985—March 29, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firms or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,663; Bates Fabrics, Inc., Lewiston, ME

TA-W-15,684; Westover Knitting Mills, Inc., Indian Orchard, MA

TA-W-15,685; Westover Knitting Mills, Inc., New York, NY

TA-W-15,680; S & M Fringing, Inc., New York, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,679; Randee-Wyn, Inc., New York, NY

Aggregate U.S. imports of trimmings are negligible.

TA-W-15,675; Hoskins Manufacturing Co., Mio, MI

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,681; Sawyer Research Products, Inc., Eastlake, OH

The decrease in sales is attributable to a loss of export sales.

TA-W-15,677; Olin Corp., Chemical Group, Moundsville, WV

The decrease in sales is attributable to a loss of export sales.

TA-W-15,676; Medusa Cement Co., Wampum, PA

Separations from the subject firm were seasonal in nature.

TA-W-15,678; RCA Corp., RCA Records Division, Indianapolis, IN

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,673; Oak Communications Systems, Elkhorn, WI

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,665; Globe Refractories, Newell, WV

Aggregate U.S. imports of clay bricks and shapes are negligible.

TA-W-15,694; Hunt-Wesson Foods, Bayonne, NJ

Aggregate U.S. imports of vegetable (cooking/salad) oil were negligible.

TA-W-15,682; Union Carbide Corp., Union Carbide Caribe, Inc., Ponce, PR

Separations from the subject firm resulted from a transfer of production to other domestic facilities.

Affirmative Determinations

TA-W-15,637; Tennessee Handbags, Inc., Danridge, TN

A certification was issued covering all workers separated on or after November 26, 1983.

TA-W-15,693; Hamilton Sportswear, Elizabeth, NJ

A certification was issued covering all workers separated on or after December 17, 1983 and before May 1, 1984.

TA-W-15,618; Halltex Clothing Co., Hall, TN

A certification was issued covering all workers separated on or after November 13, 1984 and before January 31, 1985.

TA-W-15,674; Wasser & Fluhrer, Inc., Kalama, WA

A certification was issued covering all workers separated on or after December 19, 1983.

TA-W-15,670; U.S. Steel Corp., Gary Works, Tie Plate Div., Gary, IN

A certification was issued covering all workers engaged in employment related to the production of railroad tie plates in the Tie Plate Division of the Gary Works of U.S. Steel Corporation separated on or after December 18, 1983 and before June 1, 1984.

TA-W-15,651; G.H. Bass & Co., Wilton, ME

A certification was issued covering all workers separated on or after January 1, 1984.

TA-W-15,683; United Pants Co., Inc., Plymouth, PA

A certification was issued covering all workers separated on or after December 20, 1983 and before December 31, 1984.

TA-W-15,686; A & C Wood Turnings, Inc., Cedar Brook, NJ

A certification was issued covering all workers separated on or after January 2, 1984 and before December 31, 1984.

I hereby certify that the aforementioned determinations were issued during the period March 25, 1985—March 29, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 2, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-8510 Filed 4-8-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations, pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the

subject matter or the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 19, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 19, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of April 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amerada Hess Corp. (workers)	Purvis, MS	3/21/85	3/9/85	TA-W-15,812	Petroleum refining.
Chemstar Products (workers)	Carlton, MN	3/19/85	3/15/85	TA-W-15,813	Drill starch.
East Point Seafood Co. (company)	South Bend, WA	3/25/85	3/18/85	TA-W-15,814	Pack canned shrimp and oysters.
Falcon Shoe Manufacturing Co (workers)	Lewiston, ME	3/20/85	3/15/85	TA-W-15,815	Shoes—boys' and children's.
Jomac Products, Inc. (workers)	Knox, IN	3/21/85	2/28/85	TA-W-15,816	Work gloves.
Margaret Fashions (ILGWU)	Panama City, FL	3/20/85	3/15/85	TA-W-15,817	Sportswear, ladies'.
Mari-Anne Bag Corp. (workers)	New Windsor, NY	3/19/85	3/11/85	TA-W-15,818	Handbags, ladies'.
Martin Jay Casuals (ILGWU)	New York, NY	3/25/85	3/13/85	TA-W-15,819	Sportswear, children's and ladies'.
Texaco, Inc. (OCAW)	Lawrenceville, IL	3/15/85	3/11/85	TA-W-15,820	All refined petroleum products.
Tultex Corp., Marion Plant (workers)	Marion, NC	3/25/85	3/11/85	TA-W-15,821	Fleecewear garments.
U.S. Steel Corp. (workers)	Milwaukee, WI	3/1/85	3/22/85	TA-W-15,822	Sales office.
USM Corp. (workers)	Kenton, TN	3/18/85	3/13/85	TA-W-15,823	Shoe components.
Crompton Co., Howard Richmond Plant (workers)	Leesburg, AL	3/15/85	3/6/85	TA-W-15,824	Corduroy and velveteen for clothing.
Crompton Co., Frank E. Richmond Plant (workers)	Osceola, AR	3/15/85	3/6/85	TA-W-15,825	Do.
Double Z Knitwear Corp. (ILGWU)	Ridgewood, NY	3/22/85	3/12/85	TA-W-15,826	Sweaters—ladies', knitted garments.
Halomet, Inc. (UMWA)	Masontown, PA	3/21/85	3/15/85	TA-W-15,827	Magnetite.
Indiana Glass Co. (workers)	Dunkirk, IN	3/2/85	2/26/85	TA-W-15,828	Glass tableware, decorated glassware, and other glass items.
Kayser Roth Mens Apparel, Inc. (workers)	Timonium, MD	3/5/85	2/28/85	TA-W-15,829	Men's sportcoats, men's suits.
Litton Microwave Cooking Products (workers)	Sioux Falls, SD	3/12/85	3/1/85	TA-W-15,830	Microwave ovens.
LTV Corp. (USWA)	Cleveland, OH	3/15/85	3/12/85	TA-W-15,831	Hot mill, finished sheet, cold mill blooming mill, crafts, etc.
Modern Manufacturing Co. (workers)	Timonium, MD	3/5/85	2/28/85	TA-W-15,832	Men's sportcoats and men's suits.
Rexnord Heavy Machinery (USWA)	Milwaukee, WI	2/11/85	2/5/85	TA-W-15,833	Finished machined and assembled crushers, parts.
Tuscarora Yarns, Inc.—J.M. Odell Plant (company)	Bynum, NC	3/21/85	3/15/85	TA-W-15,834	Spun cotton yarn.
American Accessories, Inc., Franstil Div. (workers)	Rutledge, TN	3/12/85	3/6/85	TA-W-15,835	Leather wallets for men and ladies.
Dorchester Refining Co. (OCAW)	Mt. Pleasant, TN	3/11/85	3/7/85	TA-W-15,836	Gasoline, asphalt.
Eaton Corp., Axle Brake Div. (workers)	Humboldt, TN	3/14/85	3/12/85	TA-W-15,837	Axle housing.
FMC Corp., Construction Equipment Group (company)	Cedar Rapids, IA	3/18/85	3/13/85	TA-W-15,838	Hydraulic excavators.
Freeman Shoe Company (workers)	Emmitsburg, MD	3/15/85	3/13/85	TA-W-15,839	Men's shoes.
Kerr-McGee Nuclear Corp. (OCAW)	Ambrosia Lake, NM	3/1/85	2/23/85	TA-W-15,840	Uranium concentrate.
Maple Creek Mine Complex (UMWA)	New Eagle, PA	2/21/85	2/11/85	TA-W-15,841	Metallurgical coal.
Mission Furniture Manufacturing Co. (workers)	Los Angeles, CA	3/12/85	3/6/85	TA-W-15,842	Home furniture.
Nutone Division of Scovill (workers)	Cincinnati, OH	3/13/85	3/6/85	TA-W-15,843	Ceiling heat/vents and paddle fans.
Philips ECG, Inc. (USWA)	Seneca Falls, NY	3/14/85	3/12/85	TA-W-15,844	Television tubes.
Sprague Electric Co. (workers)	Hillsville, VA	3/14/85	3/11/85	TA-W-15,845	Miniature aluminum electrolytic capacitors.
Vest, Inc. (company)	Fallston NC	3/20/85	3/18/85	TA-W-15,846	Men's vests, suits, sport and tuxedo.
Weyerhaeuser Co. (IWA)	Springfield OR	3/12/85	3/3/85	TA-W-15,847	Process timber into plywood.
Bethlehem Steel Corp. (USWA)	Chesterton, IN	3/18/85	3/15/85	TA-W-15,848	Steel.
Champion International (IWA)	Seattle, WA	2/12/85	2/2/85	TA-W-15,849	Plywood.
Falk Corporation (workers)	Milwaukee, WI	3/8/85	3/1/85	TA-W-15,850	Industrial gears and power transmission.
Mad Jahn Sportswear, Inc.	Hollidaysburg, PA	2/27/85	2/13/85	TA-W-15,851	Blouses, ladies.
Miniscribe Corp. (company)	Longmont, CO	3/8/85	2/22/85	TA-W-15,852	Disk drives for table top computers.
Roadmaster Corp. (United Employees Union #1)	Olney, IL	3/8/85	2/28/85	TA-W-15,853	Bycycles, exercise equipment, and Jr. riding toys.
Rob Roy, Inc. (company)	Cambridge, MD	3/4/85	2/15/85	TA-W-15,854	Boys' wear and infants' creepers, etc.
Tally Togs, Inc. (company)	Hoboken, NJ	3/20/85	3/15/85	TA-W-15,855	Newborns' and infants' snowsuits (outerwear).
Tennessee Fan Co. (workers)	Fayetteville, TN	3/12/85	3/7/85	TA-W-15,856	Oscillating table fan; ceiling fans.
Tri-Caro, Inc., Amtex Division (workers)	Cleveland, TN	3/12/85	3/6/85	TA-W-15,857	Knit fabrics (underwear materials and swimsuit).
Zeus Manufacturing Co. (workers)	Washington, GA	2/25/85	2/21/85	TA-W-15,858	All weather coats.
Zeus Manufacturing Co., Twilight Sewing Plant (workers)	Lincolnton, GA	2/25/85	2/21/85	TA-W-15,859	Do.
Algro Knitting Mills, Inc. (ACTWU)	Milltown, NJ	2/25/85	2/14/85	TA-W-15,860	Cotton and synthetic knitted fabrics.
Avondale Mills (company)	Sycamore, AL	3/4/85	2/25/85	TA-W-15,861	Polyester and combed cotton yarn.
Burlington Industries, Inc. Burlington Blended Fabrics Div. (workers)	Lindolnton, NC	2/15/85	2/12/85	TA-W-15,862	100 percent cotton and polyester/cotton yarn.
Code-A-Phone Corp. (workers)	Louisville, KY	3/5/85	2/26/85	TA-W-15,863	Telephone system equipment, call diverting equipment, telephone answering equipment.
Houdaille Industries, Powermatic/Burke (workers)	Cincinnati, OH	3/19/85	3/14/85	TA-W-15,864	Metal cutting machine tools.
Miami Footwear (USWA)	Miami, FL	2/4/85	2/1/85	TA-W-15,865	Women's dress and casual shoes.
Pleasantburg Manufacturing (company)	Greenville, SC	3/6/85	3/1/85	TA-W-15,866	Ladies' knit tops.
S & S Manufacturing (company)	Spartanburg, SC	3/6/85	3/1/85	TA-W-15,867	Do.
Simpson Timbers Co. McCleary Door & Plywood Plants (Brotherhood of Carpenters)	McCleary, WA	3/5/85	2/27/85	TA-W-15,868	Lumber products.
The Brandt Cabinet Works, Inc. (Upholsterers Int'l Union)	Hagerstown, PA	3/14/85	3/11/85	TA-W-15,869	Occasional wood furniture.
Thomaston Mills, Inc., Griffin Div. (co.)	Griffin, GA	3/18/85	3/13/85	TA-W-15,870	Apparel fabrics—denim.
Thomaston Mills, Inc., Gen. Office, Thomaston Div., Peerless Div. & Finishing Div. (CO.)	Thomaston, GA	3/18/85	3/13/85	TA-W-15,871	Fabrics, industrial household, finishing.
Abex Corp., Engineered Products Div. (USWA)	Medina, NY	3/1/85	2/25/85	TA-W-15,872	Iron and steel castings, iron tire mold castings.
Albion Cooperative, Inc. (company)	Albion, NY	3/25/85	3/22/85	TA-W-15,873	Cold storage—junice applies.
Century Brass Products, Inc., Metals Div. (UAW)	Waterbury, CT	3/12/85	3/7/85	TA-W-15,874	Brass wire and strip sheet.
Cotter Corp., Uranium Mill (OCAW)	Canon City, CO	3/6/85	2/21/85	TA-W-15,875	Milling uranium.
Kennecott Copper Corp., Utah Copper Div. (USWA)	Magna, UT	2/4/85	2/1/85	TA-W-15,876	Copper refine.
Do	Bingham Canyon, UT	2/4/85	2/1/85	TA-W-15,877	Mining copper.
Do	Garfield, UT	2/4/85	2/1/85	TA-W-15,878	Copper milling.
Schwartz Walder Mine (OCAW)	Golden, CO	3/6/85	2/21/85	TA-W-15,879	Mine ore.

[FR Doc. 85-8509 Filed 4-8-85; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Native American Programs; Proposed Allocations and Allocation Formula for Program Year 1985, Regular Program and Calendar Year 1985, Summer Youth Employment and Training Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is publishing the proposed Native American allocations, distribution formula and rationale and individual grantee planning estimates for Program Year 1985 for regular programs funded under the Job Training Partnership Act, and for Calendar Year 1985 for Summer Youth Employment and Training Programs funded under the Job Training Partnership Act.

DATE: Written comments on this proposal are invited, and must be received on or before April 30, 1985.

ADDRESS: Send written comments to: Mr. Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, Room 6122, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Paul A. Mayrand. Telephone: 202–376–6225.

SUPPLEMENTARY INFORMATION: Pursuant to section 162 of the Job Training Partnership Act (JTPA), the Employment and Training Administration (ETA) of the Department of Labor (DOL) publishes below for review and comment the proposed allocations and distribution formula for Native American grantees to be funded under JTPA Title IV, section 401, and Title II, Part B. The amounts to be distributed are $62,243,000, for Title IV, section 401; and $13,176,511, for Title II, Part B, for the Summer Youth Employment and Training Programs (SYEP) for the summer of Calendar Year 1985.

The formula for Title IV, section 401, provides that 25 percent of the funding will be based on the number of unemployed Native Americans in the grantee's area, and 75 precent will be based on the number of poverty-level Native Americans in the grantee's area.

Furthermore, for Program Year 1985 no grantee will receive less than 80 percent of the funding level it received for Program Year 1984, unless its territory to be served was increased or decreased. The rationale for the formula is that unemployment and poverty in an area are good indications of the need for employment and training programs.

The formula for allocating Title II, Part B, SYEP funds divides the funds among eligible recipients based on the proportion that the number of youths in their area bears to the total number of youths in all eligible areas. Further, in Calendar Year 1985 each grantee is guaranteed that it will receive at least 80 percent of the SYEP funds it received in Calendar Year 1984. The rationale for using the number of youths in the formula is that they are the program beneficiaries.

Statistics on youth, unemployed, and poverty-level Native Americans are derived from the Decennial Census of the Population, 1980. Subjects to Congressional appropriation actions, DOL proposes to use a similar methodology for one more year for the SYEP, and thereafter to allocate to each grantee the amount it would receive by direct application of the 1980 Census data without a hold harmless provision. Program Year 1985 is the last year a hold harmless provision will apply to JTPA Title IV, section 401 funds.

Signed at Washington, D.C., this 26th day of March, 1985.

Paul A. Mayrand.

Director, Office of Special Targeted Programs.

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		TOTAL	COST POOL	PROGRAM
ALABAMA	CREEK NATION EAST OF MISS. INC.	376,315	75,223	300,892
ALASKA	ALEUTIAN/PRIBILOF ISLANDS ASSOC.	71,298	14,260	57,038
ALASKA	ASSOC. OF VILLAGE COUNCIL PRESIDENTS	575,057	115,011	460,046
ALASKA	BRISTOL BAY NATIVE ASSOCIATION	142,551	28,510	114,041
ALASKA	COOK INLET NATIVE ASSOCIATION	367,818	73,564	294,254
ALASKA	KAWERAK INCORPORATED	224,610	44,922	179,688
ALASKA	KENAITZE INDIAN TRIBE	66,786	13,357	53,429
ALASKA	KODIAK AREA NATIVE ASSOCIATION	64,947	12,989	51,958
ALASKA	MAUNELUK NARPOWER	176,253	35,251	141,002
ALASKA	METLAKATLA INDIAN COMMUNITY	79,414	15,883	63,531
ALASKA	NORTH PACIFIC RIM	70,117	14,023	56,094
ALASKA	SITKA COMMUNITY ASSOCIATION	44,155	8,831	35,324
ALASKA	TANANA CHIEFS CONFERENCE,INC.	391,876	78,375	313,501
ALASKA	TLINGIT AND HAIDA COUNCIL	229,796	45,959	183,837
ARIZONA	AFFILIATION OF ARIZONA IND. CNTRS. INC.	368,483	69,697	278,786
ARIZONA	AMERICAN INDIAN ASSOC. OF TUCSON	338,241	67,648	270,593
ARIZONA	COLORADO RIVER INDIAN TRIBES	82,840	16,568	66,272
ARIZONA	GILA RIVER INDIAN COMMUNITY	495,324	99,065	396,259
ARIZONA	HOPI TRIBAL COUNCIL	388,143	77,629	310,514
ARIZONA	INDIAN DEV. DIST. OF ARIZONA,INC.	113,196	22,639	90,557
ARIZONA	NATIVE AMERICANS FOR COMMUNITY ACTION	202,555	40,511	162,044
ARIZONA	NAVAJO TRIBE OF INDIANS	6,879,094	1,375,819	5,503,275
ARIZONA	THE PAPAGO TRIBE OF ARIZONA	431,747	86,349	345,398
ARIZONA	PASQUA YAQUI TRIBE	38,892	7,778	31,114
ARIZONA	PHOENIX INDIAN CENTER,INC.	711,669	142,334	569,335
ARIZONA	SALT RIVER PIMA-MARICOPA IND. COMMUN.	96,837	19,367	77,470
ARIZONA	SAN CARLOS APACHE TRIBE	315,922	63,184	252,738
ARIZONA	WHITE MOUNTAIN APACHE TRIBE	335,539	67,108	268,431
ARKANSAS	AM. INDIAN CENTER OF ARKANSAS,INC.	295,989	59,198	236,791
CALIFORNIA	CALIFORNIA INDIAN MANPOWER CONS.	2,785,396	557,079	2,228,317
CALIFORNIA	CAHUILLA AMERICAN INDIAN COUNCIL	465,144	93,029	372,115
CALIFORNIA	CONS. OF UNITED INDIAN NATIONS	648,412	129,682	518,730
CALIFORNIA	FRESNO AMERICAN INDIAN COUNCIL	283,586	56,717	226,869
CALIFORNIA	KOOPA VALLEY BUSINESS COUNCIL	52,251	10,450	41,801
CALIFORNIA	INDIAN CENTER, IN C.*	1,687,560	337,512	1,350,048

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		TOTAL	COST POOL	PROGRAM
CALIFORNIA	INDIAN CENTER OF SAN JOSE,INC.	238,756	47,752	191,004
CALIFORNIA	INDIAN HUMAN RESOURCES CENTER	459,365	91,873	364,292
CALIFORNIA	NORTHERN CALIF. IND. DEV. COUNCIL,I NC.	327,998	65,600	262,398
CALIFORNIA	ORANGE COUNTY INDIAN CENTER,INC.	323,307	64,661	258,646
CALIFORNIA	TULE RIVER TRIBE	136,911	25,382	107,529
CALIFORNIA	YA-KA-MA INDIAN EDUC. AND DEV.,INC .	135,596	26,711	108,885
COLORADO	DENVER INDIAN CENTER, INC.	622,896	124,579	498,293
COLORADO	SOUTHERN UTE INDIAN TRIBE	57,623	11,525	46,098
COLORADO	UTE MOUNTAIN INDIAN TRIBE	68,477	13,895	55,582
CONNECTICUT	AMERICAN INDIANS FOR DEVELOPMENT,IN C.	193,986	38,797	155,189
DELAWARE	DEPARTMENT OF LABOR,STATE OF DELAWARE	40,065	8,013	32,052
FLORIDA	FLA. GOVERNORS COUNCIL ON IND. AFFAIRS	720,368	144,078	576,310
FLORIDA	MICCOSUKEE CORPORATION	123,403	24,681	98,722
FLORIDA	SEMINOLE TRIBE OF FLORIDA	69,500	13,900	55,600
GEORGIA	DEPARTMENT OF ARCHIVES AND HISTORY	275,443	55,089	220,354
HAWAII	ALU LIKE,INC.	2,559,696	511,938	2,047,757
HAWAII	HAWAII COUNCIL OF ALL INDIAN NATIONS	90,251	18,050	72,201
IDAHO	KAINAI TRIBE OF IDAHO	36,735	7,347	29,388
IDAHO	NEZ PERCE TRIBE	79,969	15,998	63,991
IDAHO	SHOSHONE-BANNOCK TRIBES	267,608	48,522	199,086
ILLINOIS	AM. IND. HIS. ASSN. INC. AND EMPL. PROG.	1,122,196	224,439	897,757
KANSAS	MID AMERICA ALL INDIAN CENTER,INC.	167,326	33,465	133,861
KANSAS	UNITED TRIBES OF KANSAS AND S.E. NEB.	513,713	102,743	410,970
LOUISIANA	INDIAN TRIBAL COUNCIL OF LOUISIANA,I NC.	463,688	92,738	370,950
MAINE	CENTRAL MAINE INDIAN ASSOCIATION,IN C.	96,437	18,885	75,562
MAINE	TRIBAL GOVERNORS, INC.	108,626	21,725	86,901
MARYLAND	BALTIMORE AMERICAN INDIAN CTR.,INC.	326,488	65,298	261,190
MASSACHUSETTS	BOSTON INDIAN COUNCIL,INC.	265,810	49,160	196,640
MASSACHUSETTS	WAMPANOAG INDIAN TRIBAL COUNCIL	85,727	17,145	68,582
MICHIGAN	GRAND RAPIDS INTER-TRIBAL COUNCIL	122,686	24,537	98,147
MICHIGAN	GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS	56,839	11,368	45,471
MICHIGAN	INTER-TRIBAL COUNCIL OF MICHIGAN,IN C.	73,999	14,800	59,199
MICHIGAN	MICHIGAN INDIAN EMPLOYMENT AND TRAI NING, INC.	820,459	164,092	656,367
MICHIGAN	NORTH AMERICAN INDIAN ASSOC. OF DETROIT	413,372	82,674	330,698
MICHIGAN	POTAWATOMIE INDIAN NATION	157,024	31,405	125,619

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MICHIGAN	SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS	208,826	41,765	167,061
MICHIGAN	SOUTHEASTERN MICHIGAN INDIANS, INC.	53,808	10,762	43,046
MINNESOTA	AMERICAN INDIAN FELLOWSHIP ASSN.	140,267	28,053	112,214
MINNESOTA	AMERICAN INDIAN OPPORTUNITIES CTR.	539,222	107,844	431,378
MINNESOTA *	BOIS FORTE R. B. C.	40,055	8,011	32,044
MINNESOTA	FOND DU LAC R.B.C.	52,282	10,456	41,826
MINNESOTA	LEECH LAKE R.B.C.	185,063	37,013	148,050
MINNESOTA	MILLE LACS R.B.C.	33,784	6,757	27,027
MINNESOTA	MINNEAPOLIS AMERICAN INDIAN CENTER	315,726	63,145	252,581
MINNESOTA	RED LAKE TRIBAL COUNCIL	148,184	29,637	118,547
MINNESOTA	WHITE EARTH R.B.C.	165,877	33,175	132,702
MISSISSIPPI	MISSISSIPPI BAND OF CHOCTAW INDIANS	321,264	64,253	257,011
MISSOURI	REGION VII AMERICAN INDIAN COUNCIL, INC.	595,239	119,048	476,191
MONTANA	FORT PECK INDIAN RESERVATION	221,655	44,331	177,324
MONTANA	BLACKFEET TRIBAL BUSINESS COUNCIL	294,400	58,880	235,520
MONTANA	CHIPPEWA CREE TRIBE, ROCKY BOYS RESE BY.	103,465	20,693	82,772
MONTANA	CONFEDERATED SALISH & KOOTENAI TRIBES	260,140	52,028	208,112
MONTANA	CROW INDIAN TRIBE	218,467	43,697	174,790
MONTANA	FT. BELKNAP AGENCY	83,412	16,682	66,730
MONTANA	MONTANA UNITED INDIAN ASSOCIATION	448,593	89,719	358,874
MONTANA	NORTHERN CHEYENNE TRIBE	173,133	34,627	138,506
NEBRASKA	INDIAN CENTER, INC.	136,588	27,318	109,270
NEBRASKA	NEBRASKA INDIAN COMMISSION	48,959	8,392	33,567
NEBRASKA	NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.	321,800	64,360	257,440
NEVADA	INTER-TRIBAL COUNCIL OF NEVADA	347,569	69,514	278,055
NEVADA	LAS VEGAS INDIAN CENTER, INC.	97,268	19,454	77,814
NEVADA	SHOSHONE PAIUTE TRIBES	171,272	34,254	137,018
NEW JERSEY	POWHATAN RENAPE NATION	307,735	61,547	246,188
NEW MEXICO	ALAMO NAVAJO SCHOOL BOARD	80,438	16,088	64,350
NEW MEXICO	ALL INDIAN PUEBLO COUNCIL	155,054	31,011	124,043
NEW MEXICO	EIGHT INDIAN PUEBLO COUNCIL	60,604	12,121	48,483
NEW MEXICO	FIVE SANDOVAL INDIAN PUEBLO	130,194	26,039	104,155
NEW MEXICO	JICARILLA APACHE TRIBE	56,305	11,221	44,882
NEW MEXICO	MESCALERO APACHE TRIBE	78,527	15,705	62,822
NEW MEXICO	NATIONAL INDIAN YOUTH COUNCIL	744,492	148,898	595,594

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NEW MEXICO	PUEBLO OF ACOMA	105,167	21,033	84,134
NEW MEXICO	PUEBLO OF LAGUNA	109,656	21,931	87,725
NEW MEXICO	PUEBLO OF TAOS	35,701	7,140	28,561
NEW MEXICO	PUEBLO OF ZUNI	301,871	60,374	241,497
NEW MEXICO	NAVAJO SCHOOL BOARD, INC.	96,389	19,278	77,111
NEW MEXICO	SANTA CLARA INDIAN PUEBLO	22,030	4,406	17,624
NEW MEXICO	SANDO DOMINGO TRIBE	131,407	26,281	105,126
NEW YORK	AMERICAN INDIAN COMMUNITY HOUSE, INC .	805,899	161,180	644,719
NEW YORK	NATIVE AMERICAN MANPOWER PROGRAMS, I NC.	217,526	43,505	174,021
NEW YORK	THE NORTH AM. IND. CLUB OF SYRACUSE AND VICINITY, IN	295,948	59,190	236,758
NEW YORK	ST. REGIS MOHAWK TRIBE	89,864	17,973	71,891
NEW YORK	SENECA NATION OF INDIANS	420,538	84,108	336,430
NORTH CAROLINA	CUMBERLAND COUNTY ASSOC. FOR IND. PEOPLE	130,299	26,060	104,239
NORTH CAROLINA	EASTERN BAND OF CHEROKEE INDIANS	245,583	49,117	196,466
NORTH CAROLINA	GUILFORD NATIVE AMERICAN ASSOC.	99,041	19,808	79,233
NORTH CAROLINA	LUMBEE REG. DEV. ASSOC.	1,338,570	267,714	1,070,856
NORTH CAROLINA	METROLINA NATIVE AMERICAN ASSN.	101,225	20,245	80,980
NORTH CAROLINA	NORTH CAROLINA COMM. OF IND. AFFAIRS	399,039	79,802	319,237
NORTH DAKOTA	DEVILS LAKE SIOUX TRIBE	123,322	24,664	98,658
NORTH DAKOTA	STANDING ROCK SIOUX TRIBE	258,082	51,616	206,466
NORTH DAKOTA	THREE AFFILIATED TRIBES	141,079	28,216	112,863
NORTH DAKOTA	TURTLE MOUNTAIN BAND OF CHIPPEWA IND.	350,711	70,142	280,569
NORTH DAKOTA	UNITED TRIBES — ED. TECH. CNTR.	210,265	42,053	168,212
OHIO	OHIO INDIAN JOB TRAINING PARTNERSHIP AGENCY	748,351	149,670	598,681
OKLAHOMA *	CADDO TRIBE	61,877	12,375	49,502
OKLAHOMA	CENTRAL TRIBES OF THE SHAWNEE AREA, INC.	83,489	16,698	66,791
OKLAHOMA	CHEROKEE NATION OF OKLAHOMA	1,458,591	291,719	1,166,874
OKLAHOMA	CHEYENNE-ARAPAHO TRIBES	195,879	39,176	156,703
OKLAHOMA	CHICKASAW NATION OF OKLAHOMA	391,052	78,211	312,846
OKLAHOMA	CHOCTAW NATION OF OKLAHOMA	796,411	159,282	637,129
OKLAHOMA	CITIZENS BAND POTAWATOMI IND. OF OKLA.	197,366	39,473	157,893
OKLAHOMA	COMANCHE TRIBE OF OKLAHOMA	170,369	34,074	136,295
OKLAHOMA	CREEK NATION OF OKLAHOMA	593,471	118,694	474,777
OKLAHOMA	FOUR TRIBES CONSORTIUM OF OKLAHOMA	74,448	14,890	59,559
OKLAHOMA	INTER-TRIBAL COUNCIL OF N.E. OKLAHOMA	68,394	13,679	54,715

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		TOTAL	COST POOL	PROGRAM
OKLAHOMA	KAW TRIBE OF OKLAHOMA	23,864	4,773	19,091
OKLAHOMA	KIOWA TRIBE OF OKLAHOMA	210,893	42,179	168,714
OKLAHOMA	OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.	344,300	68,860	275,440
OKLAHOMA	OSAGE TRIBAL COUNCIL	114,731	22,946	91,785
OKLAHOMA	OTOE-MISSOURIA INDIAN TRIBE OF OKLA.	37,308	7,462	29,846
OKLAHOMA	PAWNEE TRIBE OF OKLAHOMA	23,731	4,746	18,985
OKLAHOMA	PONCA TRIBE OF INDIANS	55,953	11,191	44,762
OKLAHOMA	SEMINOLE NATION OF OKLAHOMA	149,795	29,959	119,836
OKLAHOMA	TONKAWA TRIBE OF OKLAHOMA	41,345	8,269	33,076
OKLAHOMA	UNITED URBAN INDIAN COUNCIL	352,362	70,472	281,890
OREGON	CONFED. TRIBES OF SILETZ INDIANS	327,396	65,479	261,917
OREGON	CONFED. TRIBES OF THE UMATILLA IND. RES.	45,860	9,172	36,688
OREGON	CONFEDERATE TRIBES OF WARM SPRINGS	96,780	19,356	77,424
OREGON	ORGANIZATION OF FORGOTTEN AMERICANS	450,119	90,024	360,095
OREGON	URBAN INDIAN COUNCIL	290,775	58,155	232,620
PENNSYLVANIA	COUNCIL OF THREE RIVERS	457,208	91,402	365,806
PENNSYLVANIA	UNITED AM. INDIANS OF THE DEL. VALLEY	204,310	40,862	163,448
RHODE ISLAND	RHODE ISLAND INDIAN COUNCIL	148,194	29,839	118,355
SOUTH CAROLINA	OFFICE OF THE GOVERNOR OF SOUTH CAROLINA	272,906	54,581	218,325
SOUTH DAKOTA	CHEYENNE RIVER SIOUX TRIBE	233,494	46,699	186,795
SOUTH DAKOTA	CROW CREEK SIOUX TRIBE	106,072	21,214	84,858
SOUTH DAKOTA	LOWER BRULE SIOUX TRIBE	59,173	11,835	47,338
SOUTH DAKOTA	OGLALA SIOUX TRIBE	736,886	147,377	589,509
SOUTH DAKOTA	ROSEBUD SIOUX TRIBE	436,481	87,296	349,185
SOUTH DAKOTA	SISSETON-WAHPETON SIOUX TRIBE	170,001	34,000	136,001
SOUTH DAKOTA	UNITED SIOUX TRIBES DEV. CORP.	615,551	123,110	492,441
TENNESSEE	USET INCORPORATED	543,844	108,769	435,075
TEXAS	ALABAMA-COUSHATTA INDIAN RESERVATION	676,530	135,306	541,224
TEXAS	DALLAS INTER-TRIBAL CENTER	277,642	55,528	222,114
TEXAS	TIGUA INDIAN TRIBE	462,111	92,422	369,689
UTAH	INDIAN CENTER OF SALT LAKE	424,202	84,840	339,362
UTAH	UTE INDIAN TRIBE	76,238	15,248	60,990
VERMONT	ABENAKI SELF-HELP ASSN./N.H.IND. CONC.	75,282	15,056	60,226
VIRGINIA	NATAPONI PAMUNKEY MONACAN CONSORTIUM	245,164	49,033	196,131
WASHINGTON	AMERSON INDIAN COMMUNITY CENTER	218,788	43,758	175,030

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		TOTAL	COST POOL	PROGRAM
WASHINGTON	COLVILLE CONFEDERATED TRIBES	206,781	41,356	165,425
WASHINGTON *	EASTERN WASHINGTON INDIAN CONSORTIUM	510,133	102,027	408,106
WASHINGTON	LUMMI INDIAN BUSINESS COUNCIL	45,369	9,074	36,295
WASHINGTON	N.W. INTER-TRIBAL COUNCIL	55,377	11,075	44,302
WASHINGTON	PUYALLUP TRIBE	166,945	33,389	133,556
WASHINGTON	SEATTLE INDIAN CENTER	437,342	87,468	349,874
WASHINGTON	WESTERN WASH. IND. EMPL. AND TRNG. PROG.	879,776	175,955	703,821
WISCONSIN	LAC COURTE OREILLES TRIBAL COUNCING BOARD	65,439	13,088	52,351
WISCONSIN	LAC DU FLAMBEAU CONSORTIUM	47,718	9,544	38,174
WISCONSIN	MENOMINEE INDIAN TRIBE OF WISCONSIN	100,305	20,061	80,244
WISCONSIN	MILWAUKEE AREA AM. IND. MANPOWER CONC.	234,658	46,932	187,726
WISCONSIN	ONEIDA TRIBE OF INDIANS OF WIS., INC .	208,025	41,605	166,420
WISCONSIN *	ST. CROIX TRIBAL COUNCIL	39,412	7,882	31,530
WISCONSIN	STOCKBRIDGE-MUNSEE COMMUNITY	63,226	12,645	50,581
WISCONSIN	WISCONSIN INDIAN CONSORTIUM	92,946	18,589	74,357
WISCONSIN	WISCONSIN-WINNEBAGO BUSINESS COMMITTEE	201,802	40,360	161,442
WYOMING	SHOSHONE/ARAPAHOE TRIBES	229,378	45,876	183,502
	NATIONAL TOTAL	62,243,000	12,448,600	49,794,400

*Organizations identified with an asterisk were not designated to be PY 1985/86 grantees. The planning estimate assigned to them will be assigned to an alternate designee.

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		TOTAL	PROGRAM	COST POOL
ALASKA	ALEUTIAN/PRIBILOF ISLANDS ASSOC.	35,503	28,402	7,101
ALASKA	ASSOC. OF VILLAGE COUNCIL PRESIDENTS	266,800	213,440	53,360
ALASKA	BRISTOL BAY NATIVE ASSOCIATION	84,662	67,730	16,932
ALASKA	COOK INLET NATIVE ASSOCIATION	205,223	164,178	41,045
ALASKA	KAWERAK INCORPORATED	104,883	83,906	20,977
ALASKA	KOYUKUK INDIAN TRIBE	17,896	14,317	3,579
ALASKA	KUSKOKWIM AREA NATIVE ASSOCIATION	77,150	61,880	15,430
ALASKA	MAGNELUK MANPOWER	90,825	72,660	18,165
ALASKA	METLAKATLA INDIAN COMMUNITY	18,665	14,932	3,733
ALASKA	NORTH PACIFIC RIM	27,666	22,133	5,533
ALASKA	STEBA COMMUNITY ASSOCIATION	38,774	31,019	7,755
ALASKA	TANANA CHIEFS CONFERENCE, INC.	220,713	176,570	44,143
ALASKA	TLINGIT AND HAIDA COUNCIL	192,360	153,888	38,472
ARIZONA	PASCUA YAQUI TRIBE	9,525	7,620	1,905
ARIZONA	COLORADO RIVER INDIAN TRIBES	31,943	25,554	6,389
ARIZONA	GILA RIVER INDIAN COMMUNITY	137,585	110,068	27,517
ARIZONA	HOPI TRIBAL COUNCIL	109,491	87,593	21,898
ARIZONA	INDIAN DEV. DIST. OF ARIZONA, INC.	42,815	34,252	8,563
ARIZONA	NAVAJO TRIBE OF INDIANS	2,414,377	1,931,502	482,875
ARIZONA	THE PAPAGO TRIBE OF ARIZONA	157,230	125,784	31,446
ARIZONA	SALT RIVER PIMA-MARICOPA IND. COMMUN.	47,818	38,254	9,564
ARIZONA	SAN CARLOS APACHE TRIBE	120,363	96,290	24,073
ARIZONA	WHITE MOUNTAIN APACHE TRIBE	134,987	107,990	26,997
CALIFORNIA	CALIFORNIA INDIAN MANPOWER CONS.	208,366	166,693	41,673
CALIFORNIA	HOOPA VALLEY BUSINESS COUNCIL	35,622	28,498	7,124
CALIFORNIA	NORTHERN CALIF. IND. DEV. COUNCIL, INC.	7,184	5,747	1,437
CALIFORNIA	TULE RIVER TRIBE	5,782	4,626	1,156
COLORADO	NATIONAL URBAN INDIAN COUNCIL, INC.	521	417	104
COLORADO	SOUTHERN UTE INDIAN TRIBE	16,267	13,014	3,253
COLORADO	UTE MOUNTAIN INDIAN TRIBE	19,414	15,531	3,883
FLORIDA	MICCOSUKEE CORPORATION	40,794	32,635	8,159
FLORIDA	SEMINOLE TRIBE OF FLORIDA	38,186	30,549	7,637
HAWAII	ALU LIKE, INC.	1,045,015	836,012	209,003
IDAHO	IDAHO INTER-TRIBAL POLICY BOARD	6,466	5,173	1,293
IDAHO	NEZ PERCE TRIBE	20,898	16,718	4,180

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		TOTAL	PROGRAM	COST POOL
IDAHO	SHOSHONE-BANNOCK TRIBES	40,891	32,713	8,178
KANSAS	UNITED TRIBES OF KANSAS AND S.E. NEB.	36,176	28,941	7,235
LOUISIANA	INTER-TRIBAL COUNCIL OF LOUISIANA, INC.	7,746	6,197	1,549
MAINE	TRIBAL GOVERNORS, INC.	22,620	18,096	4,524
MICHIGAN	GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS	18,761	15,009	3,752
MICHIGAN	INTER-TRIBAL COUNCIL OF MICHIGAN, INC.	29,330	23,464	5,866
MICHIGAN	SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS	43,585	34,868	8,717
MINNESOTA	AMERICAN INDIAN FELLOWSHIP ASSN.	5,343	4,274	1,069
MINNESOTA	BOIS FORTE R. B. C.	14,011	11,209	2,802
MINNESOTA	FOND DU LAC R.B.C.	11,696	9,357	2,339
MINNESOTA	LEECH LAKE R.B.C.	48,935	39,948	9,987
MINNESOTA	MILLE LACS R.B.C.	11,043	8,834	2,209
MINNESOTA	MINNEAPOLIS AMERICAN INDIAN CENTER	12,942	10,354	2,588
MINNESOTA	RED LAKE TRIBAL COUNCIL	64,367	51,494	12,873
MINNESOTA	WHITE EARTH R.B.C.	87,928	70,342	17,586
MISSISSIPPI	MISSISSIPPI BAND OF CHOCTAW INDIANS	53,054	42,411	10,603
MONTANA	FORT PECK INDIAN RESERVATION	78,318	62,654	15,664
MONTANA	BLACKFEET TRIBAL BUSINESS COUNCIL	132,612	106,090	26,522
MONTANA	CHIPPEWA CREE TRIBE, ROCKY BOYS RESERV.	43,524	34,819	8,705
MONTANA	CONFEDERATED SALISH & KOOTENAI TRIBES	73,892	59,114	14,778
MONTANA	CROW INDIAN TRIBE	82,647	66,118	16,529
MONTANA	FT. BELKNAP AGENCY	57,282	45,826	11,456
MONTANA	NORTHERN CHEYENNE TRIBE	59,248	47,398	11,850
NEBRASKA	NEBRASKA INDIAN INTER-TRIBAL DEV. CORP.	32,145	25,716	6,429
NEVADA	INTER-TRIBAL COUNCIL OF NEVADA	70,428	56,342	14,086
NEVADA	SHOSHONE PAIUTE TRIBES	19,890	15,912	3,978
NEW MEXICO	ALAMO NAVAJO SCHOOL BOARD	28,735	22,988	5,747
NEW MEXICO	ALL INDIAN PUEBLO COUNCIL	150,670	120,536	30,134
NEW MEXICO	EIGHT INDIAN PUEBLO COUNCIL	28,252	22,602	5,650
NEW MEXICO	JICARILLA APACHE TRIBE	31,847	25,478	6,369
NEW MEXICO	MESCALERO APACHE TRIBE	40,939	32,751	8,188
NEW MEXICO	PUEBLO OF ACOMA	42,238	33,790	8,448
NEW MEXICO	PUEBLO OF LAGUNA	76,469	61,175	15,294
NEW MEXICO	PUEBLO OF TAOS	27,429	21,943	5,486
NEW MEXICO	PUEBLO OF ZUNI	130,754	104,603	26,151

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		TOTAL	PROGRAM	COST POOL
NEW MEXICO	NAVAJO NATION	28,264	22,609	5,652
NEW MEXICO	SANTA CLARA INDIAN PUEBLO	5,773	4,618	1,155
NEW MEXICO	SANTO DOMINGO TRIBE	42,238	33,790	8,448
NEW YORK	AMERICAN INDIAN COMMUNITY HOUSE, INC.	5,820	4,656	1,164
NEW YORK	THE NORTH AM. IND. CLUB OF SYRACUSE AND VICINITY, INC.	7,408	5,926	1,482
NEW YORK	ST. REGIS MOHAWK TRIBE	28,498	22,798	5,700
NEW YORK	SENECA NATION OF INDIANS	115,891	92,713	23,178
NORTH CAROLINA	EASTERN BAND OF CHEROKEE INDIANS	88,516	70,813	17,703
NORTH DAKOTA	DEVILS LAKE SIOUX TRIBE	40,194	32,155	8,039
NORTH DAKOTA	STANDING ROCK SIOUX TRIBE	126,815	101,452	25,363
NORTH DAKOTA	THREE AFFILIATED TRIBES	56,862	45,490	11,372
NORTH DAKOTA	TURTLE MOUNTAIN BAND OF CHIPPEWA IND.	111,126	88,901	22,225
OKLAHOMA	CADDO TRIBE	12,604	10,083	2,521
OKLAHOMA	CENTRAL TRIBES OF THE SHAWNEE AREA, INC.	35,118	28,094	7,024
OKLAHOMA	CHEROKEE NATION OF OKLAHOMA	841,001	672,801	168,200
OKLAHOMA	CHEYENNE-ARAPAHO TRIBES	114,970	91,976	22,994
OKLAHOMA	CHICKASAW NATION OF OKLAHOMA	192,908	154,326	38,582
OKLAHOMA	CHOCTAW NATION OF OKLAHOMA	335,207	268,166	67,041
OKLAHOMA	CITIZENS BAND POTAWATOMI IND. OF OKLA.	158,560	126,848	31,712
OKLAHOMA	COMANCHE TRIBE OF OKLAHOMA	121,998	97,598	24,400
OKLAHOMA	CREEK NATION OF OKLAHOMA	281,520	225,216	56,304
OKLAHOMA	FOUR TRIBES CONSORTIUM OF OKLAHOMA	37,812	30,250	7,562
OKLAHOMA	INTER-TRIBAL COUNCIL OF N.E. OKLAHOMA	36,753	29,402	7,351
OKLAHOMA	KAW TRIBE OF OKLAHOMA	6,412	5,130	1,282
OKLAHOMA	KICKAPOO TRIBES OF OKLAHOMA	15,105	12,084	3,021
OKLAHOMA	KIOWA TRIBE OF OKLAHOMA	87,265	69,812	17,453
OKLAHOMA	OKLAHOMA TRIBAL ASSISTANCE PROGRAM, INC.	203,780	163,024	40,756
OKLAHOMA	OSAGE TRIBAL COUNCIL	74,662	59,730	14,932
OKLAHOMA	OTOE-MISSOURIA INDIAN TRIBE OF OKLA.	21,359	17,087	4,272
OKLAHOMA	PAWNEE TRIBE OF OKLAHOMA	22,858	18,286	4,572
OKLAHOMA	PONCA TRIBE OF INDIANS	49,165	39,332	9,833
OKLAHOMA	SEMINOLE NATION OF OKLAHOMA	68,504	54,803	13,701
OKLAHOMA	TONKAWA TRIBE OF OKLAHOMA	46,760	37,408	9,352
OKLAHOMA	UNITED URBAN INDIAN COUNCIL	224,850	179,880	44,970
OREGON	CONFED. TRIBES OF SILETZ INDIANS	9,429	7,543	1,886

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		TOTAL	PROGRAM	COST POOL
OREGON	CONFED. TRIBES OF THE UMATILLA IND. RES.	18,583	14,866	3,717
OREGON	CONFEDERATE TRIBES OF WARM SPRINGS	43,488	34,790	8,698
OREGON	ORGANIZATION OF FORGOTTEN AMERICANS	6,709	5,367	1,342
SOUTH CAROLINA	OFFICE OF THE GOVERNOR OF SOUTH CAROLINA	11,738	9,390	2,348
SOUTH DAKOTA	CHEYENNE RIVER SIOUX TRIBE	84,894	67,915	16,979
SOUTH DAKOTA	CROW CREEK SIOUX TRIBE	32,011	25,609	6,402
SOUTH DAKOTA	LOWER BRULE SIOUX TRIBE	16,482	13,186	3,296
SOUTH DAKOTA	OGLALA SIOUX TRIBE	329,862	263,890	65,972
SOUTH DAKOTA	ROSEBUD SIOUX TRIBE	143,142	114,514	28,628
SOUTH DAKOTA	SISSETON-WAHPETON SIOUX TRIBE	50,032	40,025	10,006
SOUTH DAKOTA	UNITED SIOUX TRIBES DEV. CORP.	66,716	53,373	13,343
TEXAS	ALABAMA-COUSHATTA INDIAN RESERVATION	5,484	4,387	1,097
TEXAS	TEGUA INDIAN TRIBE	12,027	9,622	2,405
UTAH	UTE INDIAN TRIBE	53,173	42,538	10,635
VIRGINIA	MATTAPONI INDIAN CONSORTIUM	3,206	2,565	641
WASHINGTON	COLVILLE CONFEDERATED TRIBES	94,534	75,947	18,587
WASHINGTON	EASTERN WASHINGTON INDIAN CONSORTIUM	186,186	148,949	37,237
WASHINGTON	LUMMI INDIAN BUSINESS COUNCIL	42,628	34,102	8,526
WASHINGTON	N.W. INTER-TRIBAL COUNCIL	33,675	26,940	6,735
WASHINGTON	PUYALLUP TRIBE	64,595	51,676	12,919
WASHINGTON	WESTERN WASH. IND. EMPL. AND TRNG. PROG.	143,524	114,819	28,705
WISCONSIN	LAC COURTE OREILLES TRIBAL GOVERNING BOARD	27,666	22,133	5,533
WISCONSIN	LAC DU FLAMBEAU CONSORTIUM	21,293	17,034	4,259
WISCONSIN	MENOMINEE INDIAN TRIBE OF WISCONSIN	49,261	39,409	9,852
WISCONSIN	ONEIDA TRIBE OF INDIANS OF WIS., INC.	32,616	26,093	6,523
WISCONSIN	ST. CROIX TRIBAL COUNCIL	22,323	17,858	4,465
WISCONSIN	STOCKBRIDGE-MUNSEE COMMUNITY	14,367	11,494	2,873
WISCONSIN	WISCONSIN INDIAN CONSORTIUM	40,788	32,630	8,158
WISCONSIN	WISCONSIN-WINNEBAGO BUSINESS COMMITTEE	35,385	28,308	7,077
WYOMING	SHOSHONE/ARAPAHOE TRIBES	85,046	68,037	17,009
	NATIONAL TOTAL	13,176,511	10,540,207	2,635,304

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BILLING CODE 4510-30-C

Office of Pension and Welfare Benefit Programs

[Application No. D-3871]

Amendments to Prohibited Transaction Exemption (PTE) 81-8 Involving Certain Short-Term Investments

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Adoption of amendments to PTE 81-8.

SUMMARY: This document amends PTE 81-8. PTE 81-8 is a class exemption that permits various transactions relating to investments by employee benefit plans in certain short-term money market instruments. The amendments affect participants, beneficiaries and fiduciaries of plans making the stated investments, dealers and banks covered by the amendments, and other persons engaging in the described transactions.

EFFECTIVE DATE: January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Office of Regulations and Interpretations, Pension and Welfare Benefit Programs, U.S. Department of Labor, (202) 523-7902. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On July 3, 1984, notice was published in the **Federal Register** (49 FR 27379) of the pendency before the Department of proposed amendments to PTE 81-8. PTE 81-8 provides an exemption from the prohibited transaction restrictions of section 406(a)(1), (A), (B), and (D) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (the Code) by reason of section 4975(c)(1) (A), (B), and (D) of the Code.

Cantor, Fitzgerald Securities Corp. requested the first proposed amendment by application dated November 24, 1982 (Application No. D-3871). At the urging of the American Bankers Association, the Department proposed the second amendment on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code [1] and in accordance with ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), specifically § 3.01 of that Procedure.

Information collection requirements contained in PTE 81-8 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB #1210-0061 approved for use through 5/31/87.

References in this preamble to sections 406 and 408 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

The notice gave interested persons an opportunity to comment on the proposal. Public comments were received pursuant to the provisions of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

1. Description of the Exemption

PTE 81-8 provides an exemption for certain investments which involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of bankers acceptances, commercial paper, repurchase agreements, and certificates of deposit. Presently, the class exemption has four sections. Each section deals with one of the kinds of investment described above (e.g., Section I deals with bankers acceptances), and each section contains its own conditions. Such an investment would be prohibited in the absence of an exemption in instances where, for example, the seller of the instrument involved in the investment is a party in interest in relation to a plan by reason of providing services to the plan.

One of the amendments to PTE 81-8 granted pursuant to this notice expands the categories of sellers with whom plans may enter into repurchase agreements (under Section III of the exemption) to include dealers in bankers acceptances who report their security positions and other data on a daily basis to the Federal Reserve Bank of New York. For the sake of convenience, the entire text of Section III is reprinted with this notice.

The other amendment adds a new Section V to the exemption that permits a plan to invest in securities issued by a bank or its affiliate in cases where the bank is a party in interest with respect to the plan only by reason of the furnishing of checking account or related services (such as clearing and record keeping services) to the plan.

2. Discussion of Comments Received

The Department received three letters commenting on various aspects of the proposed amendment concerning bank securities in addition to a letter from the American Bankers Association urging prompt adoption of both amendments. All of the comment letters were generally supportive of the proposal.

One comment letter requested the Department to expand the scope of the proposed new Section V to include plan investments in any "security or other property" customarily marketed by banks as well as securities issued by banks. According to the letter, such security or other property would include mortgage loan participations. The commenter asserts that, given the safeguards afforded by the conditions stated in Section V, the addition would broaden the investment opportunities to plans in relation to banks which provide checking account services to them while still protecting the interests of plan participants.

The only kinds of "security or other property" specifically mentioned in the letter are mortgage loan participations. The Department points out that a separate class exemption (Prohibited Transaction Exemption 82-87, 47 FR 21331, May 18, 1982) already permits investments of this nature provided the relevant conditions specified in that exemption are met. PTE 82-87 provides, in pertinent part, an exemption from the prohibitions of section 406(a) of ERISA for the purchase by a plan of a mortgage loan or participation interest therein from a party in interest. Certain amendments to PTE 82-87 were proposed in the **Federal Register** on December 11, 1984 (49 FR 48236).

The new Section V of PTE 81-8 permits plans to invest in any type of securities, including equities as well as debt instruments, so long as the conditions set forth in the proposal are satisfied. The letter of comment gives no detail (other than mortgage loan participations) as to kinds of securities or other property customarily marketed by banks which would provide a basis on which the Department could make a determination. Accordingly, the Department has decided not to expand the type of relief intended under proposed Section V in the way suggested in the comment letter.

A letter submitted on behalf of the California Bankers Association (CBA) and a letter from the Union Bank in California recommended that subparagraph B of proposed Section V should be broadened to include services other than checking account or related services. The CBA names thirteen such services: lockbox services, note collection, remittances, credit analyses and reviews, Federal funds wire transfers, securities execution through investment securities departments, foreign currency transactions, loan

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

References in this preamble to sections 406 and 408 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

servicing, savings deposit accounts, payroll services, data processing, account reconcilement, and cash management.

The CBA argues that, if the bank offering these services is a fiduciary in relation to a plan, then the safeguards proposed in Section V.C. and V.D. provide any purchasing plans with sound protection from abuse. If the bank is not a fiduciary, then the probability of abuse is even less. The CBA maintains that the interests of plan participants are served by allowing banks to offer the various services mentioned above (to the investing plans) because costs to the plans for these services may be lower when they are obtained from the same institution and duplication of services would be minimized.

The Department notes that PTE 81–8 extends only to transactions defined in section 406(a) of ERISA and does not cover acts involving plan fiduciaries described in section 406(b). Accordingly, the class exemption would not provide relief in a situation where a bank has some discretion over the plan assets involved in an investment in securities of that bank or of an affiliated entity. Seciton 406(b) of ERISA provides, in part, that a plan fiduciary, as defined in ERISA section 3(21)(A), shall not deal with plan assets in his or her own interest or act in a transaction involving the plan on behalf of a party whose interests are adverse to those of the plan or its participants.

As for nondiscretionary bank services, the comment letters have not provided sufficient information to enable the Department to make a decision that the proposed amendment should be broadened in the suggested manner. Accordingly, the amendment is not being modified to include a party in interest relationship stemming from any services other than checking account services between a bank and a plan which invests in securities of the bank.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of ERISA, the Department makes the following determinations:

(i) The amendments set forth herein are administratively feasible;

(ii) They are in the interests of plans and of their participants and beneficiaries, and

(iii) They are protective of the rights of the participants and beneficiaries of plans;

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(4) The amendments are supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Amendments

Accordingly, the following amendments to PTE 81–8 are hereby granted under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with ERISA Procedure 75–1 [40 FR 18471, April 28, 1975].

1. Section III is amended to read as follows: "III. *Repurchase Agreements.* A repurchase agreement (or securities or other instruments under cover of a repurchase agreement) in which the seller of the underlying securities or other instruments is a bank which is supervised by the United States or a State; a broker-dealer registered under the Securities Exchange Act of 1934; or a dealer who makes primary markets in securities of the United States government or any agency thereof or in bankers acceptances and reports daily to the Federal Reserve Bank of New York its position with respect to these obligations, if each of the following conditions are satisfied.

A. The repurchase agreement is embodied in, or is entered into pursuant to a written agreement the terms of which are at least as favorable to the plan as an arm's length transaction with an unrelated party would be. For transactions occurring before April 23, 1981 a written confirmation of a repurchase agreement whose terms were at least as favorable to the plan as an arm's length transaction with an unrelated party would have been will be deemed to satisfy this condition.

B. The plan receives interest at a rate no less than that which it would receive in a comparable transaction with an unrelated party.

C. The repurchase agreement has a duration of one year or less.

D. The plan receives securities, banker's acceptances, commercial paper, or certificates of deposit having a market value equal to not less than 100 percent of the purchase price paid by the plan.

E. Upon expiration of the repurchase agreement and return of the securities or other instruments to the bank, broker-dealer or dealer (seller), the seller transfers to the plan an amount equal to the purchase price plus the appropriate interest.

F. Neither the seller nor an affiliate of the seller has discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

G. The securities, banker's acceptances, commercial paper or certificates of deposit received by the plan—

(1) Could be acquired directly by the plan in a transaction not covered by this section III without violating sections 406(a)(1)(E), 406(a)(2) or 407(a) of the Act; and,

(2) If the securities are subject to the provisions of the Securities Act of 1933, they are obligations that are not "restricted securities" within the meaning of Rule 144 under that act.

H. With respect to transactions occurring on or after April 23, 1981,

(1) If the market value of the underlying securities or other instruments falls below the purchase price at any time during the term of the agreement, the plan may, under the written agreement required by paragraph A of this section, require the seller to deliver, by the close of business on the following business day, additional securities or other instruments the market value of which, together with the market value of securities previously delivered or sold to the plan under the repurchase agreement, equals at least 100 percent of the purchase price paid by the plan;

(2) If the seller does not deliver additional securities or other instruments as required above, the plan may terminate the agreement, and, if upon termination or expiration of the agreement, the amount owing is not paid to the plan, the plan may sell the

securities or other instruments and apply the proceeds against the obligations of the seller under the agreement, and against any expenses associated with the sale; and,

(3) The seller agrees to furnish the plan with the most recent available audited statement of its financial condition as well as its most recent available unaudited statement, agrees to furnish additional audited and unaudited statementsof its financial condition as they are issued and either: (A) Agrees that each repurchase agreement transaction pursuant to the agreement shall constitute a representation by the seller that there has been no material adverse change in its financial condition since the date of the last statement furnished that has not been disclosed to the plan fiduciary with whom such written agreement is made; or (B) prior to each repurchase agreement transaction, the seller represents that, as of the time the transaction is negotiated, there has been no material adverse change in its financial condition since the date of the last statement furnished that has not been disclosed to the plan fiduciary with whom such written agreement is made.

(4) In the event of termination and sale as described in (2) above, the seller pays to the plan the amount of any remaining obligations and expenses not covered by the sale of the securities or other instruments, plus interest at a reasonable rate.

If a seller involved in a repurchase agreement covered by this exemption fails to comply with any condition of this exemption in the course of engaging in the repurchase agreement, the plan fiduciary who caused the plan to engage in such repurchase agreement shall not be deemed to have caused the plan to engage in a transaction prohibited by section 406(a)(1) (A) through (D) of the Act solely by reason of the seller's failure to complye with the conditions of the exemption."

2. A new Section V is added to read as follows: "V. *Securities of Banks.* A security issued by a bank or an affiliate of the bank if:

A. The bank is supervised by the United States or a State;

B. The bank is a party in interest or disqualified person with respect to the plan solely by reason of the furnishing of checking account or related services to the plan;

C. The terms of the transaction are at least as favorable to the plan as those of an arm's-length transaction with an unrelated party would be; and

D. The investment is not part of an arrangement under which the bank causes a transaction to be made with or for the benefit of a party in interest or disqualified person."

Signed at Washington, D.C., this 2nd day of April, 1985.

Alan D. Lebowitz,

Acting Administrator, Office of Pension and Welfare Benefit Programs.

[FR Doc. 85-8483 Filed 4-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Application No. D-5548 et al.]

Proposed Exemptions; Paint America Company, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Paint America Company Employees Profit Sharing Plan (the Plan) Located in Dayton, Ohio

[Application No. D-5548]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective January 1, 1975, to the lease of an improved parcel of real property (the Property) entered into on October 1, 1974, by the Plan to Paint America Company (Paint America), the sponsor of the Plan, provided that the terms and conditions of the lease were not less favorable to the Plan than those terms available in a transaction with an unrelated party. The lease was entered into before the effective date of the Act but after July 1, 1974, the date specified in the transitional rules under sections 414 and 2003 of the Act.

Effective Date: If granted, this exemption will be effective January 1, 1975 through June 25, 1982, the date of the sale of the Property by the Plan.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 120 participants. As of December 31, 1983, the Plan had total assets of $502,753. The First National Bank of Dayton (the Bank), a wholly owned subsidiary of National City Corporation (National City), a bank holding company, has served as the trustee of the Plan since before 1974. The Bank has complete discretionary authority with regard to Plan investments. The Bank maintains certain commerical relationships with Paint America, including a $1,050,000 loan which was extended to Paint America in 1981. These commercial relationships constitute a very small percentage of the Bank's total assets and loans outstanding. In this regard the Bank has total assets of approximately $650 million and National City has total assets of $13 billion. Neither the Bank, National City, or Paint America have any common employees, officers or directors nor does any entity own stock in each other. The only common stock interrelationship is that Mr. Robert Rightmeyer, the sole shareholder of Paint America, owns approximately 200 shares of National City stock. The applicant represents that these holdings represent a very small percentage of National City's publicly held shares.

2. In 1974, the Plan acquired the Property from an unrelated party for a total price of $60,000. The Property consists of approximately 14,323 square feet of land and is located at 27 East Linden Avenue, Miamisburg, Ohio. Immediately after purchase, Paint America (then known as the Jef-Kar Corporation), a commercial retailer of paint products, expended $93,738 to renovate the property for commercial use. The Plan leased the Property, as improved by the renovations, for a term of five years to Paint America effective October 1, 1974. The lease was a "triple-net" lease providing that the lessee was reponsible for all costs and expenses associated with maintaining the Property. The lease provided for three consecutive five year renewal options. The lease provided for rental for the first five months of the lease term of $500 per month, and rental for the remaining 55 months of the initial lease term of $750 per month. The lease was renewed on October 1, 1979 at a rental of $750 per month. This rental provided the Plan with an annual rate of return of approximately 15% based upon the total acquisition price of the Property of $60,000.

3. The Bank represents that it acted as the fiduciary for the Plan with respect to the acquisition of the Property and lease thereof to Paint America. The Bank states that it believed that the purchase of the Property and lease thereof was appropriate and suitable for the Plan. The Bank states that the rent charged under the lease was fair market rental value at the time the lease was entered into. The applicant represents that all rental payments were timely paid under the lease.

4. The applicant states that the lease was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. In this regard the applicant states that it first learned that the lease was a prohibited transaction sometime in the year 1979. The applicant therefore requested an exemption in January, 1980 for the past lease and a sale of the Property to Paint America to terminate the lease arrangement. The exemption application was withdrawn in February, 1981, and the Plan immediately thereafter began efforts to sell the Property to an unrelated party.

5. The Property was ultimately sold to Leeward Properties (Leeward) an unrelated party to the Plan, on June 25, 1982 for $110,000. The Plan received cash and a note from the buyer in the amount of $88,000. Concurrent with the sale the Plan assigned its interest in the lease to Leeward and a new lease of the Property was entered into between Leeward and Paint America.

6. Mr. Charles Azzling of Fitzpatrick Realty Company, located in Dayton, Ohio, had appraised the Property and had determined, based on an income approach that the Property, as of October 29, 1980, had a fair market value of $140,000. The Bank states that because of the depressed market for commercial properties in 1981 and 1982, an appraisal based upon the income approach was only a guide in determining the price for which the Property could actually be sold. The Bank therefore represents that the sales price of $110,000 was the fair market value of the Property. The Bank represents that the sale yielded the Plan a capital gain of $50,000 in addition to the 15% annual rate of return on the Property from the lease.[1]

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the Bank, the fiduciary for the Plan, determined that the purchase and lease of the Property was appropriate and in the best interests of the Plan; (b) the Bank determined that the rental under the lease was fair market rental when entered into; (c) all payments under the lease were timely paid; (d) the applicant represents that the lease was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975; and (e) the applicant attempted to divert the Property as soon as it realized the lease was prohibited.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Contractor's Equipment Company Employees Profit Sharing Plan (the Plan) Located in El Paso, Texas

[Application No. D-5686]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan to Contractor's Equipment Company (the Employer) of certain real property (the Real Property) for the cash consideration of $19,000, provided the price paid for the Real Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 67 participants and total assets of $1,147,603 as of December 31, 1983. The trustees of the Plan (the Trustees) are Messrs. Frank Weidner, George Weidner, Jr. and Cecil B. Oliver. Investment decisions for the Plan pertaining to stock transactions are handled by Merrill, Lynch, Pierce, Fenner and Smith while investment decisions regarding other assets, including real estate and cash are made by Mr. Frank Weidner.

2. The Employer, which maintains its principal place of business in El Paso, Texas, is engaged in the selling, leasing and repairing of heavy construction equipment in the southwestern United States and in Mexico.

3. In January 1972, the Plan purchased approximately 1.739 acres of unimproved land, legally described as "Block 1, Tract 1F2A, Ascarte Grant" and located in the City of El Paso, El

[1] The Department expresses no opinion herein whether the sale of the Property violated any provision of Part 4 of Title I of the Act.

Paso County, Texas. The Plan bought the Real Property from Leavell Development Company and El Paso Construction Company, the original developers of the area and unrelated parties. The Plan paid $37,875 for the Real Property. The Real Property partially adjoins the land on which the Employer operates its business.

In August 1975, the Plan sold .585 acres of the Real Property to Messrs. Richard and Edward Saab (the Saabs), both unrelated parties, for $30,000. The Plan granted the Saabs an option to purchase an additional 19,500 square feet but the option expired without ever being exercised. In conveying a portion of the Real Property to the Saabs, an access easement was retained in favor of the Plan for the benefit of the 1.154 acre of the Real Property then remaining. Presently, the Real Property consists of the 1.154 acre, of which only 32,300 square feet are now in use. The Real Property is also unencumbered.

4. At some point, the exact date of which is questionable, the Employer's employees and participants in the Plan began using a portion of the Real Property for parking purposes. According to the exemption application, the Employer did not order or direct this use of the Real Property nor did it pay the Plan any rent. In June 1981, the Employer erected, at its own expense, a chain link fence around part of the Real Property in order to curtail a rash of vandalism to the automobiles of its employees. Following the construction of the fence, the Employer commenced storing equipment on the Real Property for its own benefit.

5. In January 1984, the Area Administrator (the Area Administrator) of the Dallas Area Office of the Department concluded his investigation of the Plan and the activities of the Trustees after January 1, 1975. Based on the facts gathered during the investigation, the Area Administrator stated in a letter dated January 18, 1984 that the Employer's use of the Real Property and non-compensation of the Plan violated certain provisions of sections 404, 406 and 407 of the Act. In view of these violations, the Area Administrator suggested that the Employer cease using the Real Property and pay the Plan $13,561, representing back rent and interest. He also recommended that the Employer request an exemption from the Department in order to purchase or lease the Real Property from the Plan.

The Employer disputed the Area Administrator's calculation of the rental arrearage. In a letter dated June 8, 1984, the Employer wrote that it considered the Area Administrator's valuation of the Real Property to be excessive inasmuch as part of the Real Property had been sold to the Saabs and it (the Employer) had used only a portion of the remaining land. The Employer also explained that it was not until June 1981 when the reamining portion of the land was fenced in and it commenced its use.

In a letter dated June 29, 1984, the Area Administrator stated that although he did not believe the valuation of the Real Property was excessive since it had been based on two current appraisals, he was willing to consider the fact that other than for employee parking, the Employer did not commence actively using the Real Property until June 1981 and that Plan participants were the major beneficiaries of the Real Property prior to that time. The Area Administrator requested that the Employer pay the Plan back rent for its use of the Real Property between June 1981 through April 1984. Additionally, the Area Administrator stated that any taxes paid by the Plan on the Real Property from 1981 through the present should be paid by the Employer.

Thus, for the period June 1981 through June 1984, the Area Administrator assessed total rents and interest of $2,981 and total taxes and interest of $491. According to the exemption application, the Employer has paid all amounts that were determined to be in arrears. The Employer also continues to use the Real Property and it pays the Plan fair market value rent. The Employer will pay fair market value rent until the proposed transaction is consummated.

6. Since its ownership of the entire tract of land comprising the Real Property, the Plan has incurred holding costs consisting of ad valorem taxes paid to the City and County of El Paso. Although the Employer did not maintain complete records of tax payments for the years 1972 through 1983, it is estimated that the Plan's total holding costs were approximately $5,400.

7. During October 1984, the Real Property was valued by two independent appraisers who maintain their businesses in El Paso, Texas. The first appraisal was performed by Mr. Robert M. Keller (Mr. Keller), an active member of the Society of Industrial Realtors and an associate of James A. Keller, Realtors. In an appraisal report dated October 11, 1984, Mr. Keller placed the fair market value of the Real Property at $16,000.

Mr. Gus Momsen (Mr. Momsen), a senior member of the American Society of Appraisers and an associate of the Holder Company, conducted the second and subsequent appraisals of the Real Property. Initially, Mr. Momsen valued the Real Property at $19,000 in an appraisal report dated May 2, 1984. Because this appraisal did not address certain access problems or deficiencies in the Real Property, Mr. Momsen revalued the Real Property at $17,000 on October 23, 1984 and he took these factors into consideration.

In addenda to the appraisals dated January 22 and March 6, 1985, Mr. Momsen clarified his opinion on the value of the Real Property. In his January 1985 letter, he placed the fair market value of the Real Property again at $17,000. He also reiterated the access problems and explained that the easement retained by the Plan should pass with the conveyance of the land. Because of the prior use of the easement, Mr. Momsen did not believe it altered the October 1984 valuation.

In the March 1985 addendum, Mr. Momsen stated that the Real Property had no special or unique value to the Employer by reason of its proximity to the Employer's place of business. He also concluded that a premium price for the Real Property would not be warranted.

8. An administrative exemption is requested to permit the Plan to sell the Real Property and the access easement to the Employer for cash. The sales price for the Real Property will be the $19,000 value as established by Mr. Momsen. The Plan will not be required to pay any real estate commissions or fees in connection with the sale.

As a precondition to the sale, the Employer represents that it will pay all excise taxes due the Internal Revenue Service (the Service) by reason of the use of the Real Property within 60 days of the granting of the proposed exemption.

9. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price for the Real Property will be based on the highest of the independently appraised values; (c) the Plan will not be required to pay any real estate fees or commissions in connection with the sale; and (d) within 60 days of the granting of the proposed exemption, the Employer will pay all excise taxes that are assessed by the Service for the use of the Real Property.

For Further Information Contact: Ms. Jan Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Robert S. Koons, Jr., Inc. Money Purchase Pension Trust (the Plan) Located in Dallas, Texas

[Application No. D-5806]

Proposed Exemption

The Department is considering granting an exemption under the authority of and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Plan's purchase of certain stock from Mr. Robert S. Koons, Jr. (Mr. Koons), a disqualified person with respect to the Plan, provided the purchase price does not exceed the fair market value of the stock at the time of the consummation of the transaction. Because Mr. Koons is the sole participant in the Plan and is also the sole owner of Robert S. Koons, Jr., Inc., (the Plan Sponsor) the Plan is not subject to Title I of the Act, including section 406, pursuant to 29 CFR 2510.3-3 (b) and (c)(1). However, the Plan is subject to Title II of the Act, which includes section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with one participant, Mr. Koons. The Plan had total assets of $175,000 as of September 30., 1984. Mr. Koons is the Plan trustee. The Plan Sponsor is a manufacturing representative of several furniture and fabric companies.

2. Mr. Koons became a stockholder in Independence Bank (the Bank) when the bank became chartered in early 1983. On October 3, 1983, Mr. Koons purchased 4,950 shares of the stock (the Stock) from the Bank at $12.85 per share. Mr. Koons indicated to the Bank at that time he wished to own part of the Stock individually and have part of the Stock owned by the Plan. At the time the Bank charter was granted, Mr. Koons discussed with an attorney the desirability of placing approximately one-half to two-thirds of the Stock in the Plan. The attorney advised Mr. Koons that his could constitute a prohibited transaction. He, therefore, did not purchase any of the Stock on behalf of the Plan.

3. An exemption is requested to allow the Plan to purchase shares of the Stock from Mr. Koons and to allow the Plan to purchase its pro rata share of any shares of the Stock that might be offered for sale under pre-emptive rights stemming from its ownership of the Stock it will purchase for fair market value. The proposed transactions will not exceed 25 percent of the total assets of the Plan.

4. The purchase price for the Stock will be $12.81 per share. The Plan will pay cash for the Stock. The Plan will pay no brokerage fees or sales commissions. An independent appraisal of the Stock was performed by MBank Dallas. MBank Dallas is unrelated to the Plan or the Plan Sponsor. The appraisal established the fair market value of the Stock at $12.81 per share as of January 4, 1985. The Stock is not traded on an open market exchange.

5. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408 of the Act because:

(a) The Plan will be able to purchase bank stock in a strong and growing economic area;

(b) The Plan will pay the fair market value of the Stock as determined by an independent appraisal; and

(c) The Plan's trustee has determined that the transaction will be in the interests of an protective of the Plan.

Since Mr. Koons is the only participant in the Plan, and the sole owner of the Plan Sponsor, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments are due 30 days after the date of publication of this notice in the Federal Register.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-6881. (This is not a toll-free number.)

The Equitable Life Assurance Society of the United States (Equitable) Located in New York, New York

[Application No. D-5862]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to (1) the acquisition of shares of common stock (the Common Stock) of Donaldson, Lufkin, and Jenrette, Inc. (DLJ) from employee benefit plans (the Plans) by ELAS Acquisition Corp. (Acquisition Corp.), an indirect wholly-owned subsidiary of Equitable, which is a party in interest with respect to the Plans, by means of an offer to purchase for cash the Common Stock (the Purchase Offer) between DLJ and Acquisition Corp; and (2) any cancellation, extinction, and conversion of such Common Stock held by the Plans into the right to receive cash, pursuant to the Agreement of Merger (the Merger Agreement) between DLJ and Acquisition Corp., provided that the price received by the Plans is at least equal to the price received by other shareholders (the Shareholders) of the Common Stock.

Effective Date: If the proposed exemption is granted, it will be effective December 13, 1984.

Summary of Facts and Representations

1. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States, having total assets as of December 31, 1983, of approximately $43 billion. Equitable provides funding, asset management, and other services for a large number of Plans subject to the provisions of Title I of the Act. Equitable maintains several pooled separate accounts in which pension, profit-sharing, and thrift plans participate, and has several single customer separate accounts and direct investment management arrangements, pursuant to which it manages all or a portion of the assets of a number of large plans.

2. Acquisition Corp. was incorporated in Deleware in November 1984, and has had no prior operating history.

3. DLJ, a Delaware corporation, and its subsidiaries provide investment banking, investment management, securities and commodities brokerage, and related financial transactional services. It provides these services primarily through three major operating subsidiaries: Alliance Capital Management Corporation (Alliance), Donaldson, Lufkin & Jenrette Securities Corporation (Securities Corp.), and ACLI International Incorporated. DLJ's activities are directed primarily towards professional markets—major institutions, corporations, public entities, and substantial individual investors—while also providing services to a broader base of retail clients through the Pershing Division of Securities Corp. DLJ's principal executive office is located at 140 Broadway, New York, New York. Common shares of DLJ are publicly traded on the New York Stock Exchange. As of November 20, 1984, DLJ had 12,777,587 outstanding common

shares which were held by more than 5,500 persons or entities, and 213,956 preferred shares outstanding which were held by 35 persons or entities.[2]

4. The applicant is requesting an exemption which will permit Acquisition Corp. to acquire from the Plans the outstanding Common Stock under the Purchase Offer and as provided for under the Merger Agreement. Equitable may be a party in interest with respect to many Plans. However, Equitable has not been able to identify these Plans, if any, primarily because ownership of common shares changes daily as a result of New York Stock Exchange trading and because common shares which may be or may have been held on behalf of these Plans at any particular point in time are typically registered in the name of a financial institution or other nominee with no public identification of the beneficial owner.[3] However, Plans maintained by Equitable for its own employees are not among the Shareholders. Nor do any separate accounts or investment advisory accounts maintained by Equitable in which Plans participate hold any Common Stock. DLJ and Alliance each maintain a profit sharing plan (the DLJ and Alliance Plans) on behalf of their own employees which did hold Common Stock until such Common Stock was accepted for payment by Acquisition Corp.[4]

5. The terms of the subject acquisition are as follows: The Merger Agreement was entered into on November 20, 1984. The Merger Agreement provides that Equitable, through Acquisition Corp., will offer to acquire all of the common and preferred shares of DLJ and that, upon completion of the Purchase Offer, Acquisition Corp. will be merged into DLJ (the Merger). Upon consummation of the Merger, DLJ will operate as an indirect wholly-owned subsidiary of Equitable. The DLJ Board of Directors approved the Merger Agreement, determined that the Purchase Offer was fair to the Shareholders, and recommended acceptance of the Purchase Offer by the Shareholds.[5] On November 21, 1984, Acquisition Corp., pursuant to the Merger Agreement, commenced the Purchase Offer to purchase for cash all outstanding DLJ common shares at a price of $30.00 per share and all $9.50 Series A convertible preferred shares at a price of $230.779 per share. The Dealer Manager of the Purchase Offer is Morgan Stanley & Co., Incorporated. The cost of purchasing all outstanding preferred and common shares pursuant to the Purchase Offer and the Merger Agreement, plus related fees and expenses, would be approximately $420 million. The Purchase Offer is not conditioned upon any minimum number of shares being tendered. No commissions will be paid by tendering Shareholders. The Purchase Offer was extended and expired at midnight January 16, 1985. The Offer to Purchase, which was sent to all shareholders, contains a detailed description of the entire Purchase Offer and Merger Agreement.[6]

6. As of December 13, 1984, Acquisition Corp. began accepting for payment tendered Common Stock. Since it is represented that Acquisition Corp. has acquired sufficient shares to constitute a majority of voting power of the total common and preferred shares, Acquisition Corp. will be able to approve the Merger without regard to the vote of other Shareholders. Additionally, it is represented that because Acquisition Corp. will acquire at least 90 percent of each of the outstanding common shares and preferred shares, Acquisition Corp. may, under Delaware law, effect the Merger without a vote of DLJ's Shareholders. It is represented that the Merger of Acquisition Corp. into DLJ was to be completed on January 17, 1985.

7. After the completion of the Purchase Offer, the parties are obligated under the Merger Agreement to cause the Merger of Acquisition Corp. into DLJ. DLJ will continue as the surviving corporation and will be an indirect wholly-owned subsidiary of Equitable.

8. Under the Merger Agreement, each outstanding common and preferred share of DLJ not owned by Equitable, DLJ, or any of their subsidiaries, will be cancelled and extinguished and converted into a right to receive in cash $30.00 and $230.769, respectively. Thus, Shareholders who did not tender their shares under the Purchase Offer will receive in the Merger the same price for shares, $30.00 per common share and $230.769 per preferred share, that tendering Shareholders received.

9. The negotiations between DLJ and Equitable regarding the Purchase Offer and the Merger Agreement were conducted on a totally arm's-length basis. No officers or directors of Equitable or any of its affiliates were, as of the date of the Merger Agreement (November 20, 1984), officers or members of the Board of Directors of DLJ. It is represented that the offering price for the Common Stock under the Purchase Offer is more than 15 percent higher than the reported closing price $26.00 per share for such common share on November 2, 1984, the last full trading day prior to public announcement of the agreement in principle with respect to the acquisition. As of the date of the commencement of the Purchase Offer, the book value of the Common Stock was approximately $13.75 per share.

10. Equitable will not exercise any discretionary authority it might have with respect to a plan to cause any one of the Plans to engage in any of the transactions covered by the requested exemption. Neither Equitable nor any of its affiliates will act as a fiduciary with respect to any of the Common Stock covered by the requested exemption which may constitute assets of an employee benefit plan. The decision for any one of the Plans on whose behalf such Common Stock may be held to tender such Common Stock pursuant to the Purchase Offer will be made in every case by a fiduciary of such plan who is unaffiliated with, and acting completely independently of, Equitable

[2] It has been represented that prior to purchase by Acquisition Corp., DLJ's preferred shares were held by approximately 35 holders who received promissory notes from Equitable in connection with the tendering of their preferred shares. None of the preferred shareholders include any employee benefit plans. Accordingly, the acquisition of preferred shares pursuant to the Purchase Offer and the Merger Agreement is not covered under this proposed exemption.

[3] Because the identify of such plans is not known to Equitable, it is proposed that notice to interested persons be accomplished through the publication of the Notice of Proposed Exemption in the **Federal Register.**

[4] It is represented that the transfer of the DLJ and Alliance Plans' Common Stock pursuant to the Purchase Offer, is covered by the statutory exemption contained in section 408(e) of the Act, and is accordingly not covered by this proposed exemption. All subsequent references in this exemption to Common Stock do not include any Common Stock formerly held by the DLJ and Alliance Plans.

[5] It is represented that prior to entering into the Merger Agreement, Equitable entered into stock purchase agreements with two officers and directors of DLJ, a trust for the benefit of the children of one such officer and director, and two corportions to acquire an aggregate of 3,435,824 common shares at $30.00 per share and 160,093 preferred shares at $230.769 per share representing approximately 32.4 percent of the outstanding common shares (assuming conversion of the outstanding preferred shares). At the request of the individuals involved, the Stock purchase agreements were never closed. Instead the individuals tendered their shares for cash pursuant to the terms of the Purchase Offer. In addition, DLJ and Equitable entered into a stock option agreement pursuant to which DLJ granted Equitable an option to purchase 2,361,000 authorized but unissued common shares at $30.00 per share.

[6] The Purchase Offer, which was provided to all holders of record of DLJ's common and preferred shares, advised that a tender of shares pursuant to the Purchase Offer, or the conversion of shares into the right to receive cash pursuant to the Merger Agreement, by an employee benefit plan as to which Equitable is a party in interest may result in a prohibited transaction under section 406 of the Act. It is represented that the Shareholders were further advised that Equitable intended to apply to the Department for a retroactive prohibited transaction exemption with respect to the subject transactions.

and its affiliates. Such fiduciaries are bound by the fiduciary responsibility provisions of the Act to act purdently and solely in the interests of the plan. Equitable has no discretionary authority, responsibility, control or influence with respect to such decisions by these fiduciaries.[1]

In summary, the applicant represents that the transactions satisfy the requirements of section 408(a) of the Act as follows:

(1) The negotiations regarding the terms of the Purchase Offer and the Merger Agreement, particularly the cash price offered for the Common Stock, were undertaken on a totally arm's-length basis by officers of DLJ and Equitable;

(2) The offering price for the Common Stock is considerably higher than the public market value of the Common Stock prior to the announcement of the Purchase Offer;

(3) In the case of any acquisition of the Common Stock by Acquisition Corp. covered by the proposed exemption, the decision by any of the Plans to tender Common Stock pursuant to the Purchase Offer will have been made by a fiduciary of the Plans totally unrelated to Equitable and any of its affiliates; and

(4) The Plans have or will receive the same price for the Common Stock as was received by all other Shareholders.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 49765(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisioins of the Act and/or the Code, including any prohibited transaction provisons to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisioins of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 4th day of April 1985.

Elliot I. Daniel,

Acting Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85–8482 Filed 4–8–85; 8:45 am]

BILLING CODE 4510-29-M

[1] The Department by this exemption is not proposing relief for any transactions which might involve violations by Equitable or its affiliates of the fiduciary self-dealing or conflict-of-interest prohibitions of section 406(b) of the Act.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film Preservation Section) to the National Council on the Arts will be held on April 17, 1985 from 9:30 am to 5:00 pm in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

March 27, 1985.

John H. Clark,

Director Office of Council & Panel Operations, National Endowment for the Arts

[FR Doc. 85–8400 Filed 4–8–85; 8:45 am]

BILLING CODE 7537-01-M

Inter-Arts Advisory Panel (Advancement Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Advancement Section) to the National Council on the Arts will be held on April 26, 1985 from 9:00 am to 5:30 pm in Room 730 of the Nacy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506

This meeting is for the purpose of recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: April 1, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–8416 Filed 4–8–85; 8:45 am]

BILLING CODE 7537-01-M

Inter-Arts Advisory Panel (Challenge Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on April 25, 1985 from 9:00 am to 5:30 pm in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: April 1, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-8414 Filed 4-8-85; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel (Advancement Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Museum Advisory Panel (Advancement Section) to the National Council on the Arts will be held on April 30, 1985 from 9:00 am to 5:30 pm in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: April 1, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-8415 Filed 4-8-85; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel (Challenge Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Museum Advisory Panel (Challenge Section) to the National Council on the Arts will be held on April 29, 1985 from 9:00 am to 5:30 pm in the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: April 1, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-8413 Filed 4-8-85; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. -463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and Time: April 25-26, 1985; 9:00 am to 5:00 pm each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. C. William Kern, Acting Division Director, Division of Chemistry, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-7947.

Summary Minutes: May be obtained from Dr. C. William Kern.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: Open-Discussion of the current status and future plans of the Chemistry Division's activities.

M. Rebecca Winkler,

Committee Management Officer.

April 4, 1985.

[FR Doc. 85-8449 Filed 4-8-85; 8:45 am]

BILLING CODE 7555-01-M

Committee Management Advisory Committee on Merit Review; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I have determined that the establishment of the Advisory Committee on Merit Review is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable Management Secretariat, General Services Administration.

Name of Committee: Advisory Committee on Merit Review.

Purpose: To evaluate merit review as practiced by NSF and other agencies and provide advice and recommendations concerning alternative systems of merit review and selection of projects for grants.

Effective Date of Establishment and Duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Committee will operate for one year.

Membership: The membership of this Committee shall be fairly balanced in terms of the points of view represented and the Committee's function. Members will be individuals eminent in science, engineering, education, and industry. Due consideration will be given to achieving membership that reasonably represents public, private, and academic communities; women, minorities, and the handicapped, and different geographical regions of the country.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act, GSA Interim Regulations on Federal Advisory Committee Management, Foundation policy and procedures, and other directives and instructions issued in implementation of the Act.

Erich Bloch,

Director.

April 4, 1985.

[FR Doc. 85-8448 Filed 4-8-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458A]

Gulf States Utilities Company and Cajun Electric Power Cooperative, Inc.; Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Rector Regulation has made an initial finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the River Bend Power Station by the Attorney General and the Commission. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the 'significant change' determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the River Bend 1 construction permit to Gulf States Utilities Company and Cajun Electric Power Cooperative, Inc., the staffs of the Antitrust and Economic Analysis Section of the Site Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as 'staff', have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

"In reaching this conclusion, the staff considered the structure of the electric utility industry in Louisiana, the events relevant to the River Bend construction permit review and the events that have occurred subsequent to the construction permit review.

"The conclusion of the staff's analysis is as follows:

"Staff has identified changes in the conduct of Gulf States Utilities Company (Gulf States) since the completion of the construction permit (CP) antitrust review that may have competitive significance in the Louisiana bulk power industry. Gulf States: (1) Has offered ownership shares in River Bend to power entities in Louisiana and Texas; (2) negotiated new interconnections and service agreements with other generating systems throughout Louisiana and adjacent States; (3) has joined with other power entities in the development and construction of additional non-nuclear base load generating facilities; (4) is serving new wholesale customers; (5) has provided transmission services to generating power entities in its service area; (6) has prepared a draft 'Power Delivery Agreement' to provide transmission services to non-generating entities; and (7) has curtailed or cancelled the construction of new generating plant and equipment, due in large measure to the slow down in projected load growth of Gulf States' system.

"Many of these activities, e.g., the offer of nuclear plant access, transmission service to generating power entities and various wholesale for resale agreements, represent changes in Gulf States' conduct as a result of commitments (and subsequent River Bend license conditions) made to the Department of Justice during the CP antitrust review. The River Bend license conditions and the changes which evolved as a result of the license conditions have provided smaller power systems the means to seek out alternative sources of power and energy and gain a foothold in the market occupied by a broad spectrum of power suppliers in Louisiana and surrounding States. The license conditions have provided a competitive stimulus among bulk power suppliers in Louisiana and surrounding States. At the same time, the license conditions have provided the customers of these power suppliers, i.e., smaller, less integrated power systems, the ability to purchase more cost effective sources of power and energy. Staff encourages more of these types of changes for they tend to promote the most cost efficient allocation of power and energy throughout the Louisiana bulk power market.

"One area of concern identified by staff in its review of Gulf States' activities since the completion of the CP review concerned allegations that Gulf States was unwilling to provide wheeling rights over its transmission system to non-generating power systems in it service area. The River Bend license conditions required Gulf States to provide transmission services to *generating* power entities. A refusal by Gulf States to provide transmission services to *non*-generating power entities was looked upon by staff as a change in Gulf States' conduct that could represent a significant change since the CP review and if any relief were required, it would evolve from an operating license antitrust review, not from a compliance proceeding. After review of the available data and contacts with Gulf States and other affected power entities in Louisiana, staff believes that the allegations pursuant to Gulf States' refusal to provide wheeling services to non-generating power entities is being resolved. Gulf States has (indirectly) offered wheeling services to a large number of non-generating power systems in Louisiana through its interconnection agreements with Cajun Electric Power Cooperative, Inc. (Cajun) and the Louisiana Energy and Power Authority (LEPA). Moreover, it appears that non-LEPA power entities without generating capability can now gain access to Gulf States' transmission system through the "Power Delivery Agreement" (PDA) proposed by Gulf States. (Although the PDA is presently in draft form, Gulf States has indicated to staff that the PDA will be made available to eligible entities requesting it. Staff will continue to monitor Gulf States' activities to determine if any eligible non-generating power system is refused wheeling services under the proposed PDA.)

"Staff believes that the changes which have occurred in Gulf States' relationships with smaller power systems in and adjacent to its service area since the completion of the construction permit antitrust review have been generally pro-competitive. Access to the benefits associated with large base load power plants has been made available to many smaller less integrated power entities incapable of financing such plants on their own. Through the implementation of the River Bend license conditions requiring wheeling, generating power entities in Louisiana (particularly the smaller systems) are now better able to supplement and coordinate their generation with other generating

systems. Moreover, through new agreements negotiated or presently being offered by Gulf States, non-generating power entities in and adjacent to Gulf States' service area now have access to alternative sources of power and energy via Gulf States' transmission system. As a result of these developments, staff is recommending that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the River Bend Nuclear Station.

"Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the River Bend Station, Unit 1 is not required."

Signed on April 2, 1985 by Darrell G. Eisenhut, Acting Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 for 30 days from the date of the publication of the **Federal Register** notice. Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Donald P. Cleary,

Acting Chief, Site Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

April 3, 1985.

[FR Doc. 85-8458 Filed 4-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8380]

Rocky Mountain Energy Co.; Draft Finding of No Significant Impact Regarding the Termination of Source and Byproduct Material License SUA-1228 for the Operation of the Nine Mile Lake In Situ Leach Research and Development Site, Natrona County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY:

(1) *Proposed Action.* The proposed administrative action is to terminate Rocky Mountain Energy Company's Source Material License SUA-1228 for the Nine Mile Lake In Situ Leach Research and Development site, at which complete ground-water restoration could not be achieved.

(2) *Reasons for Finding of No Significant Impact.* An Environmental Assessment was prepared by the staff of the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV. Based on this assessment, the Commission has determined that no significant impact will result from the proposed action, and therefore, an environmental impact statement is not warranted.

The following statements support the finding of no significant impact and summarize the conclusions resulting from the environmental assessment:

(a) The licensee, using the best practicable technology, conducted several episodes of restoration which temporarily improved ground-water quality, but were followed by periods of ground-water quality deterioration. Pattern 1 continues to act as a source of contamination at the Nine Mile Lake site. The mechanisms responsible for the release of contaminants are dissolution of precipitates, diffusion of dissolved species for low permeability zones into high permeability zones and solution channels, desorption of ions from clay and other minerals and possibly the presence of unrecoverable lixiviant.

Alternatives considered for removing or containing the remaining contamination included additional restoration involving ground-water sweep and recirculation, grouting of the contaminated area, use of reductants, and natural restoration. Additional restoration involving ground-water sweep and recirculation methods would be costly and would not be effective at eliminating the source of contamination, resulting in only temporary improvement in ground-water quality. Grouting techniques would not be effective methods of isolation since there is no feasible means of confirming that the contamination has been permanently contained. Additional injection and recovery operations probably would re-establish oxidizing conditions and actually increase concentrations of some of these elements. The use of reductants is not considered to be proven technology at this time, and may result in unpredictable complications at great cost. Natural restoration appears to be the best method for reducing the concentration of heavy metals.

(b) Prior to operation at the Nine Mile Lake site baseline water quality sampling showed water quality to be poor. Natural concentration of TDS, sulfate, radium, cadmium, iron, lead, manganese, mercury and selenium render this water unsuitable for domestic use, and natural concentrations of radium, mercury, selenium, and vanadium render it unsuitable for livestock use. Although some species such as radium and uranium tend to be associated with the uranium roll front deposit most species increase in concentration with distance from the recharge area. Local recharge from dry alkaline lake beds also contributes significantly to the mineralization of the ground water. Therefore, the incremental contamination caused by the ISL R&D operations is not significant when considering the natural quality of the ground water.

(c) Notification of hazards associated with the ground-water contamination at this site would be provided to the public via the Wyoming Department of Environmental Quality well permitting procedures. Therefore, the potential for future users of this ground water is greatly minimized.

In accordance with 10 CFR 51.32, the Director, Uranium Recovery Field Office made the determination to issue a draft finding of no significant impact to further the purposes of NEPA regarding an unprecedented action and to accept comments on the draft finding for a period of 30 days after issuance in the **Federal Register.** The unprecedented action is the termination of a source material license for an ISL R&D site where ground water has not been completely restored. This finding, together with the environmental assessment setting forth the basis for the finding, is available for public inspection and copying at the Commission's Uranium Recovery Field Office located at 730 Simms Street, Suite 100, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street NW, Washington, D.C.

Dated at Denver, Colorado, this 29th day of March, 1985.

For the Nuclear Regulatory Commission.

Edward F. Hawkins,

Chief, Licensing Branch I, Uranium Recovery Field Office, Region IV.

[FR Doc. 85-8459 Filed 4-8-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14447 (812-6018)]

Baker, Fentress & Co.; Application for Order Permitting Certain Limited Partners To Engage In Affiliated Transactions

April 2, 1985.

Notice is hereby given that Baker, Fentress & Company ("Applicant"), Suite 3510, 200 West Madison Street, Chicago, IL 60660, a non-diversified, closed-end, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 8, 1985, and an amendment thereto on March 14, 1985, for an order of the Commission pursuant to section 6(c) of the Act granting an exemption from the provisions of section 2(a)(3)(D) of the Act in connection with Applicant's proposed purchases of limited partnership interests in various limited partnerships. 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 to the Act for the text of the applicable provisions.

Applicant proposes to invest as a limited partner in various limited partnerships. Applicant represents that any such investments in limited partnerships would be limited to less than five percent of the equity of the partnership and would be made solely for investment purposes. Applicant further represents that it will limit its investment to those limited partnerships in which (a) the management is vested exclusively in the general partners(s) and (b) Applicant will have no power to control the affairs of the limited partnership or of the general partner(s).

Applicant states that as of December 31, 1984, it had total investments of $316 million, with $224 million invested in unaffiliated issuers, $46 million invested in a controlled affiliate ("Controlled Affiliate"), $1 million invested in non-controlled affiliates and $45 million invested in short-term obligations and bankers' acceptances. Applicant states that the Controlled Affiliate is engaged in the planned development of Florida real estate and the production and sale of citrus fruit.

Applicant believes that section 2(a)(3)(D) of the Act could be construed to mean that each limited partner of a limited partnership in which Applicant would invest (including Applicant) would be an affiliated person of each other partner. Consequently, Applicant asserts that, in the absence of exemptive relief, such limited partners and their affiliates would need to scrutinize each co-participant in every future transaction as as to assure that there would be no violation of section 17(d) of the Act or the rules and regulations thereunder. Applicant also asserts that a comparable problem exists for affiliated transactions under section 17(a) of the Act.

Applicant states that the problems described above are particularly acute given its ownership in the Controlled Affiliate, an active operating company with various business interests. Applicant contends that if it were to invest in a limited partnership, the Controlled Affiliate could from time to time have transactions with that partnership's other partners or their affiliates. Applicant submits that although certain of those transactions could be exempt from the prohibitions of section 17(a) of the Act and Rule 17d-1 thereunder pursuant to Rules 17a-6 and 17d-1(d)(5) under the Act, the statutory and regulatory burden for assuring that the persons referred to in such exemptive rules are not participating in the transactions is upon the partners of the limited partnership and their respective affiliates. Applicant asserts that it is neither possible nor fair to impose this burden on the limited partners of a limited partnership as an incidence of Applicant's investment therein.

Applicant states that the relief sought relates solely to the terms "partner" and "copartner" appearing in section 2(a)(3)(D) of the Act. Furthermore, Applicant states that any transactions involving affiliated persons of Applicant (other than "partners" or "copartners" solely by reason of their status as limited partners in a limited partnership) or affiliated persons of such persons on the one hand, and Applicant or the Controlled Affiliate on the other hand, will continue to be subject to the limitations contained in sections 17 (a) and (d) of the Act and the rules and regulations thereunder notwithstanding issuance of the requested order.

Applicant alleges that because the monitoring and operational problems associated with treating limited partners of a limited partnership as affiliated persons of Applicant are so severe, a limited partnership might not accept an investment from Applicant unless relief from the results described above is granted. Applicant submits that if investment companies such as Applicant were to be effectively precluded from investing in limited partnerships, the effect would be to deprive such companies of participation in attractive investment opportunities available to others and to deprive those partnerships of a significant source of capital.

Applicant submits that the requested exemption is consistent with the purposes fairly intended by the policy and provisions of the Act. In support of its exemptive request, Applicant notes that a comparable investment by a registered investment company in an enterprise organized in a corporate form as opposed to a limited partnership form would not lead to the restrictions on subsequent transactions by the co-investors of the registered investment company. Applicant further submits that none of the abuses intended to be remedied by the passage of the Act are inherent in the facts of the present situation.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, 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 Applicant 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.

John Wheeler,

Secretary.

[FR Doc. 85-8486 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14453; 812-6030]

CenTrust Mortgage Acceptance Corp.; Application for an Order Exempting Applicant

April 3, 1985.

Notice is hereby given that CenTrust Mortgage Acceptance Corporation ("Applicant"), 3217 N.W. 15th Terrace, Suite 307, Ft. Lauderdale, Florida 33309, a Delaware corporation, filed an application on January 23, 1985, and an amendment thereto on March 20, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940

("Act"), exempting Applicant from all provisions 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 to the Act for the text of the pertinent statutory provisions.

Applicant states that it is a limited pruposes financing corporation organized to facilitate the financing of long-term residential mortgages on one- to four-family residences, and that it will engage in no other business or investment activity. Currently, it is wholly-owned by CenTrust Mortgage Corporation, a Florida corporation which originates and sells mortgage loans on residential properties. Before commencing operations, Applicant plans to issue shares representing 50 percent of its outstanding voting securities to one or more unaffiliated entities for additional capital contributions.

Applicant intends to issue certain mortgage-collateralized obligations ("Bonds") secured by a trust indenture ("Indenture") with an independent trust ("Trustee"), supplemented by one or more supplemental indentures, which will each apply to a separate series of bonds (a "Series"). Bonds are to be sold to institutional and retail investors through investment banking firms, and each Series registered under the Securities Act of 1933, absent an appropriate exemption. Indentures for public offerings will be subject to the Trust Indenture Act of 1939.

The Bonds are to be collateralized by certain assets ("Mortage Collateral"), including (i) pledged mortgage loans ("Pledged Loans"), which will be secured by first mortgages or deeds of trust on one- to four-family residences, and originated by or on behalf of, or purchased by, home building companies, savings and loan associations, mortgage banking concerns, or other financial institutions, including CenTrust Mortgage Corporation ("Participants"); (ii) "fully-modified pass-through" mortgage-backed certificates, principal and interest on which is guaranteed by the Government National Mortgage Association ("GNMA Certificates"); (iii) Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"); (iv) Guaranteed Mortgage Pass-Through Certificates issued by the Federal National Mortgage Association ("FNMA Certificates") (GNMA Certificates, FHLMC Certificates and FNMA Certificates collectively, "Mortgage Certificates," each representing a fractional undivided interest in an underlying pool of mortgage loans); and (v) reinvestment earnings and distributions on (i)–(iv) above. Mortgage Collateral may also include certain proceeds accounts, debt service funds, reserve funds and insurance policies.

Participants, or their limited purpose finance subsidiaries ("Finance Companies"), may either sell or pledge Mortgage Collateral to Applicant in connection with the issuance of Bonds. In the case of a sale, the Participant will transfer title to Mortgage Collateral directly to Applicant in exchange for Bond issuance proceeds. In the case of a pledge, a participant will organize a Finance Company, to which it will transfer title to Mortgage Collateral. The Finance Company will enter into a funding agreement ("Funding Agreement") with Applicant, CenTrust Mortgage Corporation, or an affiliate of CenTrust Mortgage Company, which will make a collateralized mortgage loan ("CML") to the Finance Company in accordance with the Funding Agreement.

Pursuant to Funding Agreement entered into with CenTrust Mortgage Corporation, or an affiliate thereof (other than Applicant), a Finance Company will pledge Mortgage Collateral to CenTrust Mortgage Corporation or its affiliate as security for a CML; CenTrust Mortgage Corporation or its affiliate will sell the Funding Agreement to Applicant and the Mortgage Collateral will continue to secure such Funding Agreement; Applicant will issue a Series of Bonds; the proceeds of that Series will be transmitted to CenTrust Mortgage Corporation or its affiliate; Centrust Mortgage Corporation or its affiliate will use such proceeds to make the CML to the Finance Company, which in turn will apply the proceeds to the repayment of indebtedness incurred in funding or acquiring mortgage loans, or originating additional loans securied by one-to four-family residences; and the Finance Company will repay the CML by causing payments on the Mortgage Collateral to be made directly to the Trustee as needed to amortize principal and interest on the corresponding Series.

Where Funding Agreements are entered into directly between a Finance Company and Applicant, the Finance Company will pledge Mortgage Collateral to Applicant as Security for a CML; Applicant will issue a Series of Bonds; Applicant will use the Series proceeds to make the CML to the Finance Company, which will in turn use the proceeds to repay indebtedness incurred in funding or acquiring mortgage loans, or in originating additional loans on one- to four-family residences; and the Finance Company will repay the CML by causing payments on the Mortgage Collateral to be made directly to the Trustee on behalf of Applicant as needed to pay principal and interest on the corresponding Series.

Under any of the foregoing arrangements, Applicant will assign to the Trustee its entire right, title and interest in the Funding Agreements and the Mortgage Collateral as security for the Series.

Although the Bonds will not be redeemable by the Bondholders, Applicant states, they may be subject to special redemption if the Trustee determines that there is sufficient cash flow from Mortgage Collateral to service outstanding Bonds between scheduled payment dates. Additionally, all or a portion of a Series may be subject to redemption at the option of Applicant at any time on or after a "bond redemption date," when the aggregate principal balance of the Series has declined below the "bond redemption amount" as set forth in the Indenture and the prospectus, or in the private placement memorandum relating to that Series.

In support of its request for exemption, Applicant notes that a number of large homebuilders and lending institutions have issued mortgage backed bonds through wholly-owned finance companies, and that such finance companies have not been required to register under the Act, apparently on the strength of the exception to the Act's definition of investment company provided in section 3(c)(5)(c) of the Act, which removes any company not issuing redeemable securities, face-amount certificates of the installment type, or periodic payment plan certificates, and which is engaged in the business of acquiring mortgages and other liens on and interests in real estate, from the purview of the Act. Applicant submits that there is no reason deriving from public policy to require it to register under the Act merely because its objective is to facilitate the efforts of smaller institutions in employing the same financing mechanism, and thereby achieving the same economies of scale as the larger builders and lenders.

The Mortgage Certificates which are sold directly to Applicant as Mortgage Collateral may include both "whole pool," or "partial pool," Mortgage Certificates. Applicant asserts that both whole pool and partial pool Mortgage Certificates constitute "mortgages and other liens on an interest in real estate"

within the meaning of section 3(c)(5)(C), and that it should be exempted from the Act regardless of whether its assets consist primarily of, or its income is primarily attributable to whole or partial pool Mortgage Certificates.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securites and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant 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.

John Wheeler,

Secretary.

[FR. Doc. 85-8496 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14552; (File No. 812-5760)]

Energy Fund Inc., et al.; Application for an Amended Order In Connection With Loans of Portfolio Securities to an Affiliate

April 4, 1985.

Notice is hereby given that Energy Fund Incorporated, Guardian Mutual Fund, Inc., and the Partners Fund, Inc. (the "Funds"), all at 342 Madison Avenue, New York NY 10173, and registered under the Investment Company Act of 1940 ("Act") as open-end management investment companies, and Neuberger and Berman ("N&B", collectively with the Funds "Applicants"), at 522 Fifth Avenue, New York, NY 10038, filed an application on January 30, 1984, and amendments thereto on December 20, 1984 and January 28,1985, requesting an order pursuant to sections 6(c), 17(b), and 17(d) of the Investment Company Act of 1940 (the "Act") and Rule 17d-1 thereunder amending a previous order, Investment Company Act Release No. 11249, dated July 13, 1980 (the "Existing Order"), pursuant to sections 6(c), 17(b), and 17(d) of the Act and Rule 17d-1 thereunder that granted certain exemptions from the provisions of sections 17(a), 17(d), and 18(f) of the Act to the extent necessary to permit the Funds to make portfolio loans to N&B, subject to certain conditions. Applicants seek an amended order revising certain conditions of the Existing Order, including the method of calculating the collateral fees to be paid to N&B in connection with N&B's borrowing of portfolio securities from the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, to the Act and the rules thereunder for the text of their relevant provisions, and to the notice of the filing of the application for the Existing Order (Investment Company Act Release No. 11175, May 19, 1980) for a statement of its relevant provisions.

Applicants state that N&B is a New York Stock Exchange member firm that indirectly owns all of the outstanding stock of the corporation serving as investment adviser to each of the Funds, and that N&B itself serves as the Fund's subadviser. Absent the Existing Order, N&B would be prohibited by section 17(a)(3) of the Act from borrowing portfolio securities from the Funds because of its relationship with them.

Applicants assert that, because of major changes in the securities lending business since the filing of the prior application, it is not economically feasible for N&B to borrow any meaningful amount of portfolio securities from the Funds under the conditions set forth in the Existing Order. The Applicants further assert that because the Funds lack the necessary personnel and expertise in the securities lending business, the Funds are not able to lend any meaningful amount of their portfolio securities to borrowers other than N&B. Accordingly, the Applicants seek a number of modifications of the Existing Order. The proposed modifications have been considered and approved by the committees of disinterested directors of the Funds which have responsibility under the Existing Order for monitoring securities loan transactions between the Funds and N&B (the "disinterested director committees").

According to the application, in 1977, each of the Funds obtained shareholder approval to lend portfolio securities with a view to realizing additional income and an increased overall return. In such transactions, the borrowing broker secures its obligation to return the borrowed securities by depositing cash collateral equal to at least 100% of their market value with the lending Fund, and the lending Fund invests the cash collateral in a short-term, interest-bearing money market instrument such as an overnight repurchase agreement issued by the Fund's custodian bank. At the time of the loan, the borrowing broker and the lending Fund establish the portion of the earnings on the cash collateral invested by the Fund which is to be paid by the borrowing broker as a collateral fee. The lending Fund realizes additional income and hence an increased return by retaining the balance of such earnings on the collateral.

According to the application, under the Existing Order, the collateral fee rate at which the Funds are permitted to lend securities to N&B may not exceed a "Posted Rate" determined daily by averaging the rates paid to N&B by the three registered investment companies (other than the Funds) which on the preceding day had the largest market value of securities on loan to N&B. The Applicants assert that, as a result of the changes in the securities lending business, this formula regularly produces a Posted Rate which is substantially lower than, and hence uncompetitive with, the collateral fee rates at which N&B concurrently borrows securities from unaffiliated, non-investment company lenders. In support of this assertion, N&B has supplied data indicating that, over the four months ended December 31, 1983, the Posted Rate ranged from ⅝ of 1% to 1⅝% lower than the collateral fee rates actually paid to N&B in the preponderance of its securities borrowings form unaffiliated third-party lenders. The Existing Order relieves N&B of the obligation to borrow from the Funds securities which it can obtain from an unaffiliated third-party at a collateral fee rate which is at least ⅛ of 1% higher than the Funds' Posted Rate. Accordingly, since the Existing Order was granted, N&B has not borrowed a meaningful amount of securities from the Funds.

Applicants contend that the collateral fee rates paid by investment companies which lend their securities are not a suitable measure of the market because investment companies are not regular participants in the securities lending business. The Applicants believe that most investment companies (including the Funds) lack the internal capability in securities lending and do not have portfolios of the size and diversity needed to attract the attention of the large New York Stock Exchange member firms which are the principal borrowers of securities. N&B has advised the Funds that, like most such brokerage firms, N&B generally deals with investment companies as lenders of last resort when N&B requires securities in great demand but short supply; and,

in such cases, N&B usually borrows the securities at collateral fee rates well below those at which it borrows readily available securities. Thus, Applicants believe that the Posted Rate is not a fair and accurate reflection of collateral fee rates prevailing in the securities lending market.

According to the application, the disinterested director committees of the Boards of Directors of the Funds, after considering this situation, have approved certain proposed modifications of the Existing Order. The most significant of these modifications is a change in the method of calculating the Posted Rate that would permit the Funds to pay N&B collateral fees which more closely approximate the market rate evidenced by N&B's concurrent dealings with unaffiliated third-party lenders.

According to the applications, under the proposed modification, the Posted Rate would be computed on each business day on the basis of a weighted average of the collateral fee rates actually paid to N&B under securities borrowing contracts constituting, both in number and dollar amount, at least 66⅔% of all such contracts outstanding at the close of business on the last preceding business day. The Posted Rate so fixed for any business day would be applicable to each securities loan made by any of the Funds to N&B on such day, and would remain in effect for the duration of the loan, subject to renegotiation and adjustment by agreement of such Fund and N&B, in which case the Posted Rate fixed for the business day on which the adjustment is agreed upon would thereafter apply to the loan unless and until further adjusted in the same manner. The Funds would be required to renegotiate an outstanding securities loan to the current Posted Rate or to terminate the loan if, (i) the current Posted Rate declines to more than ½ of 1% below the Posted Rate applicable to the loan or (ii) the overnight repurchase rate at which the Fund invests collateral posted by N&B declines to no more than ⅛ of 1% above the Posted Rate applicable to the loan. If securities loaned to N&B are or become the subject of certain transactions which are likely to produce increased borrowing demand for such securities (e.g., a tender offer, exchange offer, business combination, acquisition or disposition, corporate reorganization or liquidation, bankruptcy proceeding or proxy contest), and N&B borrows securities of the same issue from an unaffiliated third-party lender at a collateral fee rate more than ⅛ of 1% lower than the Posted Rate then in effect with respect to the loan made by a Fund, such Posted Rate would be reduced to such lower collateral fee rate. If N&B borrows from an unaffiliated registered investment company at a collateral fee rate lower than the Posted Rate then applicable to an outstanding borrowing of securities of the same issue from any of the Funds, such Posted Rate would similarly be reduced to such lower collateral fee rate.

Applicants contend that the proposed modification establishes a formula for determining the Posted Rate that will be fair and reasonable in operation both to the Funds and N&B. N&B believes that, among New York Stock Exchange member firms, which constitute the principal borrowers of securities, it is one of the five largest securities borrowers. As a major participant in the securities lending business, N&B continually borrows securities from a large and diverse group of unaffiliated lenders, including other brokerage firms and institutional investors such as banks, insurance companies, pension and profit-sharing funds, charitable foundations and educational institutions, all or most of which have committed substantial resources and personnel to the development of expertise and capability in the securities lending business. In such transactions, N&B negotiates collateral fee rates at arms length, taking into account not only its own desire to realize profits from such transactions, but also the borrowing competition it faces from other brokerage firms, many of which are substantially larger than N&B. For these reasons, Applicants believe that N&B's securities borrowing activities are a fair representation of the marketplace, and that the collateral fee rates at which N&B makes the preponderance of its securities borrowings from unaffiliated third-party lenders are a fair reflection of prevailing market rates.

Applicants assert that in considering these matters, the Funds have also given weight to the fact that, with the modifications described above, the Existing Order would place the Funds in a more favorable position with respect to their securities loans to N&B than they would be in with respect to securities loans to unaffiliated third-party borrowers. Thus, as indicated above, the modified formula for computing the Posted Rate would include "most favored nation" arrangements with respect to securities loaned to N&B which are or become the subject of a publicly announced transaction that is likely to create increased borrowing demand for such securities and with respect to securities loaned to N&B by other registered investment companies. In addition, the amended order would continue in effect conditions of the Existing Order obligating N&B (i) to reimburse each Fund for any economic loss it may incur by reason of an excess of the costs it incurs in lending securities to N&B over its earnings from such loan, and (ii) to borrow from the Funds securities required by N&B which the Funds are willing to lend at the current Posted Rate unless N&B can borrow the same securities from a third-party lender at a collateral fee rate at least ⅛ of 1% higher than such Posted Rate. Finally, under a new condition proposed for inclusion in the amended order, N&B would be required to pay over to each Fund, on a quarterly basis, certain "excess earnings" that N&B would otherwise have derived from the relending of securities borrowed from the Fund.

Apart from the changes described above, the Applicants propose a number of other modifications of the conditions of the Existing Order. These may be summarized as follows:

(1) It is proposed that seven conditions of general applicability to securities loans made by the Funds be deleted from the amended order. The Applicants state that in their place the Board of Directors of each Fund will adopt a set of operating procedures governing securities loans to unaffiliated third-party borrowers. The proposed operating procedures would be substantively identical to the general conditions in the Existing Order in all but the following respects:

(a) Each Fund would be permitted to accept as collateral for a securities loan to an unaffiliated borrower, in addition to cash and United States government securities, any other form of collateral permitted by Regulation T and Rule 15c3–3 under the Securities Exchange Act of 1934. However, the amended order would retain a condition of the Existing Order requiring N&B to collateralize all of its borrowings from the Funds with cash;

(b) An existing requirement that a lending Fund realize a "reasonable" return from each securities loan would be modified to provide that such return be "determined by an investment officer of the fund to be reasonable within general guidelines established by the Fund's Board of Directors." Applicants state that this modification is intended to establish a more objective standard which can be audited by their independent public accountants;

(c) An existing requirement that any custodial fees paid by a lending Fund in

connection with a securities loan be "reasonable" would be replaced by a requirement that any such fees be "paid to the Funds' regular Custodian pursuant to a fee schedule approved by the Fund's Board of Directors." The Funds state that this modification accords with their actual operating practice;

(d) A condition which now limits the market value of securities loaned by any of the Funds to 10% of its total net assets would be modified to permit each Fund to lend securities having a market value of up to 30% of its total net assets, but the modified condition would impose a 10% sublimit on loans to do any single borrower.

(2) It is proposed that a condition relating to transactions in which N&B acts as a finder for third-party borrowers be deleted from the Existing Order. Applicants state that in conducting its securities borrowing and lending activities, N&B acts as principal for its own account and at its own risk, and does not act as finder, broker or agent for any lender or borrower of securities. Applicants further state that, in a substantial majority of cases, N&B borrows securities from brokers and institutional lenders with a view to relending such securities to other brokerage firms, most of which are major participants in the securities lending business who would be acceptable as borrowers of securities from the Funds under criteria established by their Boards of Directors. On this basis, the Applicants propose that the deleted condition be replaced by a new condition which states that N&B will act as principal for its own account and at its own risk in borrowing securities from the Funds and in relending such securities to third-party borrowers but which goes on to provide that, if during any calendar quarter, N&B's earnings from the relending of securities borrowed from any Fund exceed the Fund's earnings from such loans to N&B by more than ⅛ of 1% per annum of the average market value of the securities loaned, N&B will pay over such excess earnings to the Fund. The Applicants assert that this condition will insure that N&B does not derive excessive profits from the relending of securities borrowed from the Funds.

(3) As previously noted, it is proposed that an existing condition of general applicability limiting the securities loans of each Fund to 10% of its total net assets be deleted from the amended order, and that, in lieu thereof, each Fund adopt an operating procedure limiting its securities lending to 30% of its total net assets and imposing a sublimit of 10% of total net assets on loans to any single borrower. In order to take account of these modifications, it is proposed that the amended order contain a new condition making the 10% sublimit specifically applicable to securities loan transactions between each Fund and N&B.

(4) It is proposed that the amended order contain a new condition obligating each fund to maintain and preserve permanently in an easily accessible place a written copy of the operating procedures (and any modifications thereof) which are followed in lending securities and to maintain and preserve for a period of not less than six years from the end of the fiscal year in which any securities loan occurs, the first two years in an easily accessible place, (i) a written record of each securities loan setting forth the number of shares or face amount of securities loaned, the loan fee received or Collateral Fee paid, the identity of the borrower and the terms of the loan and, (ii) a written record of the information and documentation considered and the deliberations and actions taken by the committee of disinterested directors of the Fund in connection with the discharge of its responsibility to review securities loans made by the Fund to N&B. Applicants state that the purpose of this condition is to make the Funds recordkeeping obligations associated with their securities lending activities similar to those imposed by Rule 17e-1(c) of the Act on registered investment companies which rely on that Rule in buying and selling securities through affiliated brokerage firms.

The Applicants submit that the amended order sought by the Application will ensure that all transactions involving securities loans by the Funds to N&B will be reasonable and fair to both the lending Funds and to N&B, consistent with the Fund's investment policies, and will not involve overreaching by any party, and that such amended order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants further submit that such amended order will enable the Funds to lend their portfolio securities to N&B on a regular basis, thereby enabling the Fund to realize substantially greater income at lower cost and reduced risk than would result from the lending of portfolio securities of the Funds to unaffiliated third-party borrowers, and, in this manner, will produce the additional return to the shareholders of the Funds that the Existing Order was intended but has failed to produce.

Applicants finally request that any amended order issued on the application be made applicable to any other registered investment company which invests primarily in equity securities and for which N&B or any subsidiary of N&B is now acting or hereafter acts as investment adviser or sub-adviser, provided that such company files with the Commission a written undertaking, accompanied by the resolutions of its Board of Directors or Trustees which authorize and implement the undertaking, (i) to adopt and maintain operating procedures of general applicability to such company's securities loans which are similar in substance to the operating procedures followed by the Funds, and (ii) to adopt and be bound by all of the conditions of the amended order in connection with any securities loans made by such company to N&B.

Notice is further given that any interest person wishing to request a hearing on the application may, not later than April 29, 1985, ate 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, DC. 20549. A copy of the request should be served personally or by mail upon Applicant 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.

John Wheeler,

Secretary.

[FR Doc. 85-8497 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21916; File No. SR-Amex-85-1]

Self-Regulatory Organizations; Proposed Rule Change; American Stock Exchange, Inc.; Regarding Restrictions of Persons Affiliated With Specialists or Specialist Units.

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 March 19, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission

Amendment No. 1 to the above filing to reflect changes to the Statement of Purpose in Item II. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.[1]

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

(a) The American Stock Exchange, Inc. (the "Exchange"), is proposing to amend Rules 190 and 193 to permit an approved person or member organization which is associated with a specialist or specialist unit (collectively referred to herein as an "affiliated upstairs firm") to:

- Trade specialty securities
- Trade options on specialty stock
- Engage in business transactions with the issuer (or insider) of specialty stock or stock underlying specialty options
- Accept orders in specialty securities from the issurer, its insiders and institutions, and
- Perform research and advisory services with respect to specialty securities.

provided certain conditions are met which result in the establishment of an Exchange approved "Chinese Wall" between the upstairs firm and the specialist unit on the floor.

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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

For many years Amex rules have imposed restrictions on stock specialists and on various persons affiliated with specialists or specialist units.[2] These rules have stood as serious obstacles to attracting diversified, well-capitalized retail firms to act as specialists at the Exchange. In general, these rules prohibit specialists, their member organizations, and their corporate parents, from engaging in business transactions with issuers of specialty stocks (or insiders of such issuers); from "popularizing" specialty stock, *i.e.*, making recommendations and providing research coverage; from accepting orders in specialty stocks from the issuer, insiders, and institutions; from trading in options on their speciality stocks; and from trading in specialty securities, except pursuant to market making functions. As a result, with some exceptions, diversified retail firms with corporate finance, retail sales and research departments have avoided the specialist business since they would be required to curtail or eliminate many of their present business activities as they relate to specialty stocks.

These restrictions derive principally from a concern that any business relationship between a listed company and its specialist could either give rise to the improper transmission or use of material non-public corporate or market information or to conflicts of interest. It was felt that specialists, due to their unique position in the market, should carry out their market making responsibilities free of any outside influences or undertakings. The restrictions on specialists were extended to cover "approved persons" or affiliated upstairs firms of a specialist unit whose business relationships with issuers raised similar conflicts of interest problems, so they would not be placed in a more advantageous position vis-a-vis other market participants because of their association with the specialist unit.

The regulatory and competitive environment has changed materially since these rules were first adopted in the early 1960's. At that time specialists had a measure of control over markets in their specialty stock which has been greatly eroded due to a number of circumstances, including the adoption of SEC Rules 19c–1 and 19c–3,[3] and the increasing competitive vigor of both the over-the-counter market and the regional exchanges. Further, the steady increase in member firm block trading activity reduced the control specialists were perceived to have over the market in their specialty stocks. Today, there is no longer a continuing need for these prohibitions, as they relate to affiliated upstairs firms, in light of the highly sophisticated surveillance techniques in effect at the Exchange and increased competition from other markets. These diversified firms now specializing on the Exchange have for some time asked the Exchange to ease these restrictions. Similar restrictions are not imposed on over-the-counter market makers, and the NYSE, which does have similar rules, is currently actively studying their revision.[4] Moreover, both the Pacific Stock Exchange and the Boston Stock Exchange, which were not required to adopt such restrictions (apparently because they were not the primary market in most of the stocks traded there) have recently taken steps to attract major retail firms to their floors. Relaxation of the rules restricting the activities of affiliated upstairs firms will assist the Exchange in remaining competitive with these other markets.

Specifically, the Exchange proposes to amend Rule 193, concerning affilitated persons of specialists, to provide an exemption (for the affiliated upstairs firm only) from: the trading restrictions pertaining to purchases or sales of specialty stock for the account of an approved person, as specified in Rule 170; the prohibitions placed on an approved person's trading in options on speciality stocks, as specified in Rule 175; the prohibition against "popularizing" specialty stocks, as specified in Commentary to Rule 190; the prohibition against entering into business transactions with the issuers (or insiders) of specialty stocks, as specified in Rule 190(a); and the prohibition against accepting orders in specialty stocks from the issuer, insiders

[1] While this notice of filing of the Amex proposal requests public comment on the proposed rule change, the Commission expects to issue a separate release relating to the affiliation of an exchange approved person or member organization with a specialist or specialist unit. In its release the Commission will pose specific questions relating to the affiliation of an upstairs firm with a specialist unit. Prospective commentators, therefore, may wish to consider whether to comment on the instant filing or the Commission's separate release.

[2] The rule apply to "approved persons" which refers to an individual or corporation, partnership or other entity which controls a member or member organization, or which is engaged in the securities business and is either controlled by or under common control with a member or member organization, or which is the owner of a leased membership.

[3] Rule 19c–1 eliminated off-board trading restrictions on most agency transactions. Rule 19c–3 precludes exchange off-board trading restrictions from applying to securities that were listed on an exchange after April 26, 1979.

[4] The NYSE issued a Special Membership Bulletin on July 29, 1964 which described a "functional regulation" concept, similar to the Amex proposal, that would exempt firms associated with a specialist unit from a number of similar NYSE specialist restrictions if its terms were met.

and institutions, as specified in Rule 190(b). In addition, since certain of Rule 190's prohibitions are extended to options specialist by Rule 950(k) upstairs firms will be exempt from those prohibitions, as well. This exemption will only be available to an approved person or other affiliated upstairs member organization which obtains prior Exchange approval for procedures restricting the flow of material, non-public information between it and its affiliated specialist, *i.e., a* "Chinese Wall". Formal Exchange Guidelines which firms, as stated above, will be required to meet in establishing these procedures are discussed below.

The Chinese Wall. Today, many diversified retail firms have established internal policies and procedures, known as Chinese Walls, restricting inter-departmental flow of material non-public information about the firm's corporate clients.[5] The goal of these procedures is to prevent the communication of unpublished price-sensitive information about issuers of publicly held securities to those departments of the firm which might misuse the information for market trading purposes. The Chinese Wall concept operates on the principle that adequate control over access to inside information will preclude its misuse and reduce conflicts of interest problems. In diversified securities firms, personnel in the retail sales, research and investment advisory divisions are generally denied access to information held by the firm's investment banking division. Usually this is accomplished by an express policy statement which prohibits personnel who have knowledge of material non-public information about a publicly held corporation from communicating that information to personnel in other departments of the firm. In addition, some firms bolster their walls by restricting access to files containing non-public information, controlling personnel transfers between departments, physically separating the "knowledgeable" department from the remainder of the firm, or by creating a separate subsidiary or affiliate.

Any firm wishing to obtain an exemption for its non-specialist activities from the restrictions specified in amended Rule 193 must establish a Chinese Wall in conformity with Exchange Guidelines between the specialist unit and its affiliated upstairs member firm. The exemption is voluntary. Any affiliated upstairs firm not wishing to satisfy the Exchange criteria will remain subject to the restrictions discussed above.

The Chinese Wall envisioned in these rule changes will be designed to preclude the flow of corporate or market information, including the positions of the specialist and the condition of his book, between the specialist member organization and any operational unit or department of the affiliated upstairs firm. Once in place, these procedures will substantially lessen the need for the prohibitions contained in the rules discussed above to the extent they apply to upstairs firms affiliated with specialists. The restrictions themselves would remain in effect as to the specialist organization itself.

The Guidelines. In substance, the proposed Guidelines set forth minimum requirements to be met by a firm seeking the exemption of Rule 193. Specifically, under the Guidelines: A firm seeking the exemption must organize the operations of the upstairs affiliated firm and its associated specialist unit in such a way that the activities of each entity are clearly separate and distinct. The affiliated upstairs firm and its associated specialist organization will be required to be organized as separate organizations. At a minimum, the two organizations will be required to maintain spearate and distinct books, records and accounts and each satisfy separately all applicable financial and capital requirements. While the Exchange will permit the affiliated upstairs firm and its specialist organization to be under common management, in no instance will either organization be permitted to exercise influence over or control the other's conduct with respect to particular securities.

The affiliated upstairs firm and its specialist organization will be required to establish written procedures, to be submitted for Exchange approval, to preclude the flow of material, non-public or market information derived from either the activities or positions of the specialist or the activities and positions of the upstairs firm. These procedures must designate and specifically identify the individual(s) within the upstairs firm with responsibility for maintenance and surveillance of such procedures. The Guidelines leave the responsibility of establishing a system of policies and procedures necessary to avoid a violation of Exchange rules to the member firm seeking the exemption. The Exchange, however, must approve the procedure established before any exemptions will be granted. Moreover, the Exchange will continue to monitor the effectiveness of the Wall through audit procedures, as described below.

If the Exchange determines that the organizational structure and the compliance and audit procedures proposed by the upstairs firm are acceptable under the Guidelines, the Exchange will inform the firm, in writing, at which point the affiliated upstairs firm may act in reliance on the exemption in Rule 193. Absent such prior written approval, the firm will not be entitled to act in reliance on the exemption.

The Guidelines also require that all orders in a specialty security for a proprietary account of an affiliated upstairs firm, other than orders left with the specialist for execution or orders to be executed in a cross-transaction to facilitate executions of customer orders in the normal course of its block positioning activity, must be executed by a broker not affiliated with the upstairs firm.

The specialist organization may make available to a broker affiliated with it only the sort of market information that it would make available in the normal course of its specializing activity to any other broker and in the same manner that it would make information available to any other broker. The specialist organization may only make such information available to a broker affiliated with the upstairs firm pursuant to a request by such broker for such information and may not, on its own initiative, provide such broker with such information.

Where an affiliated upstairs firm "popularizes" a specialty security it must disclose that an associated specialist makes a market in the security, may have a position in the stock, and may be on the opposite side of public orders executed on the Floor of the Exchange in the stock, and the firm will have to notify the Exchange immediately after the issuance of a research report or written recommendation. Firms must take appropriate remedial action against any person violating the Guidelines and/or the firm's internal compliance and audit procedures. The Exchnage may, if necessary, take appropriate action, including (without limitation) reallocation of specialty securities and/or revocation of the exemption provided in Rule 193, in the event of such a violation. If the affiliated upstairs firm intends to clear proprietary trades of the specialist organization procedures must be established to ensure that information with respect to such

[5] Chinese Walls have gained wide acceptance in multiservice securities firms, as well as in commercial banks, investment companies, insurance companies and similar entities, as a means of minimizing legal hazards flowing from the possession of sensitive, non-public information and perceptions of conflicts of interest.

clearing activities will not be used to compromise the firm's Chinese Wall. The procedures followed must, at a minimum, be the same as those presently used by the firm to clear trades of third parties. Only firms that currently clear third party trades will be permitted to self-clear for the specialist organization. Finally, no individual associated with an affiliated upstairs firm may trade as a Registered Trader, a Registered Equity Market Maker, or a Registered Options Trader in any stock or option in which an associated specialist organization specializes.

Surveillance and Oversight.—First, as mentioned above, firms seeking the exemption will be required to apply, setting forth in writing the compliance and audit procedures they propose to implement, together with the persons within the firm responsible for such compliance. In assessing these applications, the Exchange will be concerned not only with whether the procedures meet the Exchange's Guidelines, but also with the level of capability of the firm's compliance personnel and the firm's past record for meeting the Exchange's overall compliance requirements.

Second, the existing market surveillance conducted by the Exchange is already far more detailed and sophisticated than its capabilities of the early 1960's and is aimed at uncovering the types of trading activities which gave rise to the restrictions which have historically governed specialists. Thus, unusual trading activity, whether by the specialist or by others, indicating a possible breach of the Wall is likely to be exposed by existing daily transaction journal and computer exception reports. This capability will be made even stronger upon the forthcoming completion of the Equities Audit Trail which will enable the Exchange to reconstruct the market more rapidly to determine, among other things, if a specialist's trading activities are consistent with its marketmaking responsibilities.

Third, the Exchange will in addition develop new surveillance and inspection programs specifically aimed at firms enjoying exemptions under Rule 193, as a means of bolstering the continuing regulatory oversight of the Chinese Wall's effectiveness. In this respect, as is set forth in more detail below, additional reports of upstairs research and trading activities will be required, and exchange inspections personnel will conduct both regular and special inspections to assure that these firms are in fact maintaining and internally policing their Chinese Wall procedures.[6]

A. *Proprietary Trading—Rule 170.* Rule 170(e) presently prohibits a member, officer, employee or approved person who is affiliated with the specialist or specialist organization from trading in specialty stocks. Amended Rule 193's exemption will allow an affiliated upstairs firm to effect proprietary trades in specialty securities free of these specialist restrictions provided it has adopted written procedures to prevent individuals at the affiliated upstairs firm who direct day-to-day trading decisions for proprietary accounts from receiving knowledge of the specialist's book or trading activities. Thus, the affiliated upstairs firm will not be placed in a more advantageous position vis-a-vis other market participants, and proprietary trading by the upstairs firm will not be any different than similar trading effected by other firms not affiliated with the specialist. Similarly, the specialist unit will be insulated from any information concerning the upstairs firm's business relations with an issuer which could affect his market making responsibilities. The Exchange will augment its surveilance for possible breaches of the Wall by requiring daily reports of all proprietary trades in specialty stocks directly from the affiliated upstairs firm which will then be compared to specialist positions and market making performance.

In addition, as mentioned above, Exchange Guidelines provide that all orders in a specialty security for a proprietary account of an affiliated upstairs firm of the specialist, other than orders left with the specialist for execution, or orders to be executed in a cross-transaction to facilitate executions of customer orders in the normal course of its block positioning activity must be executed by an unaffiliated broker. In addition, the specialist organization may make available to a broker affiliated with it only the sort of market information that it would make available in the normal course of its specializing activity to any other broker and in the same manner that it would make information available to any other broker. The specialist organization may only make such information available to a broker affiliated with the upstairs firm pursuant to a request by such broker for such information and may not, on its own initiative, provide such broker with such information. This will assure that no preferential treatment occurs in the handling of orders.

B. *Overlying Options—Rule 175(a).* Rule 175(a) prohibits specialists and their member organizations from trading options on any security in which they are registered as a specialist. Amended Rule 193 will allow an affiliated upstairs firm to trade options on specialty stocks for its own account, whether for trading or hedging purposes, thus enabling it to take full advantage of the stock trading exemption discussed above. The Exchange will institute a special surveillance routine for abusive trading by receiving and analyzing daily options trading reports and comparing them to underlying stock trading by the parent firm and the specialist.

C. *Business Transactions with the Issuer—Rule 190(a).* Presently, Rule 190(a) prohibits any business transactions between a stock specialist, his member organization or parent firm and the issuers and insiders of their specialty stocks. Amended Rule 193 will provide an exemption to permit affiliated upstairs firms to engage in the full gamut of legitimate business transactions. Thus, affiliated upstairs firms will be permitted to engage in underwriting,[7] merger and acquisiton or

[6] The usefulness of the Chinese Wall concept has been recognized by the Commission in other contexts. For example, in the tender offer area, Rule 14e-3(b) provides that a multiservice firm will not be held in violation of the "disclose or abstain" aspects of the rule if the individuals making the decision to trade in the affected securities did so unaware of inside information possessed by other individuals in the firm, provided the institution itself has established reasonable policies to ensure that such individuals do not receive inside information, *i.e.*, a Chinese Wall. Similarly, the Commission's statements regarding the then proposed Insider Trading Sanctions Act, enacted in 1984, indicate that a multiservice firm with an effective Chinese Wall would not be liable for trades effected on one side of the Wall, notwithstanding inside information possessed by firm employees on the other side.

[7] In order to facilitate use of the exemption provided in proposed Rule 193, the Exchange will request that the Commission provide either exemptive relief or a "no-action" position with regard to Rules 10b-6 (underwriting) and 10a-1 (short sales) under the Securities Exchange Act of 1934.

SEC Rule 10b-6 prohibits persons who are engaged in a distribution of securities from bidding for a security which is the subject of the distribution until they have completed their participation in the distribution. An exception to Rule 10b-6 for affiliated upstairs firms complying with Rule 193 is necessary if the specialist is to be permitted to perform his affirmative market obligations during a distribution in which the affiliated upstairs firm is a participant.

SEC Rule 10a-1 governs short sales and requires "netting" stock positions to determine whether an entry is net short or net long. A firm seeking to abide by the exemption offered in proposed Rule 193 could not comply with the provisions of Rule 10a-1 and still preserve the integrity of a Chinese Wall since the Wall requires that there will no be sharing of information with respect to the specialty stock positions of the specialist and its affiliated upstairs firm. Thus, Rule 10a-1 should not be interpreted by the Commission to require the

Continued

other corporate finance activities on behalf of a specialty issuer. These examples, however, are provided for illustrative purposes only, and by no means are intended to be all-inclusive. With a properly functioning Chinese Wall it should not matter whether the business in question is conducted by the affiliated upstairs firm or some other firm. For the Exchange to conduct surveillance in this area the Securities Division, which monitors the business activities of Amex-listed companies, will direct relevant information to the Trading Analysis Division which can then review specialist activity in light of the possibility that the specialist obtained and traded upon material non-public information, or that the specialist was influenced by knowledge of business dealings by the parent firm, in carrying out his market making responsibilities.

D. *Institutional Orders—Rule 190(b).* Rule 190(b) prevents a specialist or his member organization from accepting orders in its specialty securities directly from designated institutions. It does not permit the acceptance by specialists of institutional orders when acting as agent for another member or member organization of the Exchange. Historically, the Exchange has interpreted Rule 190(b) to apply to all approved persons, including the affiliated upstairs firms, even though its language refers only to a specialist, his member organization and any corporate subsidiary. The rule is concerned with preventing large institutions from using their influence unduly, for example, to obtain access to information regarding the specialist's book, or affect the actions of the specialist unit, or receive favorable treatment in the execution of their orders. This prohibition is unnecessary if a firm complies with the Exchange's Guidelines since the Chinese Wall structure will prevent the specialist and the affiliated upstairs firm's institutional trading department from prearranging any favorable executions. Further, once an order is presented on the floor, Exchange surveillance and the discipline of the Amex floor trading rules will prevent any preferential treatment by the specialist. Therefore, amended Rule 193 will provide an exemption from Rule 190(b) to allow the acceptance of orders in specialty securities directly from issuers, insiders, and institutions. For purposes of clarification, Rule 190(b) has been amended to add the term "approved persons" so that upstairs firms not obtaining Rule 193's exemption remain subject to Rule 190(b)'s restrictions.

E. *Popularizing—Commentary to Rule 190.* An approved person or affiliated upstairs firm of a specialist unit is prohibited from "popularizing" a specialty stock by Commentary to Rule 190. This restriction is concerned with conflicts of interest and potential for market manipulation where the upstairs firm makes recommendations, solicits orders or issues research reports concerning a stock in which its associated specialist is registered and may have a significant position as principal. However, a Chinese Wall which operates in the manner required by the Exchange Guidelines is designed to draw a curtain between the upstairs firm and its specialist affiliate. Thus, the specialist will be unable to obtain advance knowledge of the firm's recommendations. Further, by permitting affiliated upstairs firms to issue research reports the Exchange will enhance the flow of public information about its listed companies thereby providing a tangible benefit to the investing public. Therefore, an approved person or member organization which is affiliated with a specialist member organization and entitled to the exemption provided in amended Rule 193, will be permitted to popularize a specialty security, provided that it makes disclosures that an associataed specialist makes a market in the security, may have a position in the stock, and may be on the opposite side of public orders executed on the Floor of the Exchange in the stock. The Exchange also will require affiliated upstairs firms to notify it immediately after they issue research reports or written recommendations. This will facilitate the institution of timely trading studies.

(2) Basis

The proposed amendments are consistent with Section 6(b) of the Exchange Act in general and further the objectives of Sections 6(b)(5) and 6(b)(8) in particular in that they are designed to remove impediments to and perfect the mechanism of a free and open market, to protect investors and the public interest by removing barriers to entry into specializing and encouraging competition in specializing, and to remove burdens on competiton not necessary or appropriate. The proposed amendments are also consistent with Section 11A(a)(1)(C) in that it will promote competition among exchange markets, and between exchange markets and markets other than exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes are intended to reduce burdens on competition which were excessive since they created disincentives to specializing without any offsetting regulatory benefits.

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 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 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 accrodance 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 refer to the file number in the caption above and should be submitted by April 30, 1985.

Dated: April 2, 1985.

specialist unit and its segregated upstairs firm to "net" their respective stock positions to determine whether the two entities are in aggregate, net long or net short for purposes of the Rule.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-8493 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21910; File No. SR-AMEX-85-4]

Self-Regulatory Organizations; Proposed Rule Changes, American Stock Exchange, Inc., Relating to Changes to Rule 602 (Designation of Arbitrators), Rule 605 (Initiation of Proceedings), Rule 606 (Rules of General Application), Rule 601 (Panel of Arbitrators) and Disciplinary Rule 12 (Disclosure of the Result of Disciplinary Proceeding)

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 March 21, 1985 the American Stock Exchange, Inc. ("Amex" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Amex is proposing to amend its arbitration rules to conform them to recent changes in the securities industry's Uniform Arbitration Code concerning public customers versus member arbitrations and to change the process by which arbitrators are appointed, and its disciplinary rules to provide for the publicity of summary disciplinary proceeding decisions. The Amex included the text of the proposed amendments in its filing with the Commission.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Changes

The self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes in its filing with the Commission. The test 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 the Statutory Basis for, the Proposed Rule Change

SICA Rule Changes

A uniform arbitration code (the "Uniform Code") has been developed by the Securities Industry Conference on Arbitration ("SICA"), which is composed of representatives of the Amex, nine other self-regulatory organizations, four public members, and the Securities Industry Association. The Uniform Code, as implemented by the various self-regulatory organizations, has established throughout the securities industry a uniform system of public customer versus member arbitration procedures. The proposed rule changes are intended to conform the Amex's arbitration rules to the most recent amendments to the Uniform Code.

1. *Designation of Number of Arbitrators.* Presently, Rule 602(a) provides that: one public arbitrator is appointed for customer controversies involving an amount not exceeding $5,000; a three member panel comprised of two public arbitrators and one industry arbitrator is appointed where the amount in controversy is greater than $5,000 and does not exceed $100,000; and a five member panel comprised of three public arbitrators and two industry abritrators is selected where the amount in controversy exceeds $100,000. Rule 602(a) is proposed to be amended to require a five member panel only in cases where the amount in controversy is $500,000 or more. Even in that instance, parties will be permitted to agree in writing to having their dispute determined by a three member panel. The majority of the panel would in either case consist of public arbitrators.

In cases where the amount in controversy exceeds $100,000, it is usually necessary to schedule multiple hearing sessions. Reducing the panel size from five to three will reduce scheduling difficulties which delay the ultimate resolution of a case. Further, the proposed amendment will reduce the Exchange's costs and enable it to use arbitrators on more cases.

2. *Answer-Defenses.* As the volume of arbitrations has expanded throughout the industry, some respondent brokerage firms are failing to file answers on a timely basis, thereby delaying the expeditious resolution of those cases. While civil court practice and the Exchange's own disciplinary rules provide recourse for the failure to submit an answer, there is no comparable rule for arbitration proceedings.

A proposed amendment to Rule 605(b) would permit the arbitrators, within their discretion, to bar a respondent, responding claimant, cross-claimant or third party respondent from presenting any matter, argument or defense at the hearing where such party has failed to file an answer within twenty business days from receipt of service or within a time extention granted by the Director of Arbitration.

3. *Adjournment.* The most frequent cause of delay in arbitration proceedings is a last minute adjournment request from one of the parties. This is inconvenient for the panel members and the opposing party, who have each set time aside for the hearing, and adds to the Exchange's administrative costs. At the American Arbitration Association, which administers' approximately 40,000 arbitrations a year, an adjournment fee is routinely imposed on the party making such a request.

The proposed amendment to Rule 606(e) would require a party requesting an adjournment to pay a fee equal to his filing fee but no more than $100, once a panel of arbitrators has been appointed. It is expected that this adjournment fee will discourage adjournment requests and help cover the attendant costs of processing them. The proposed amendment also provides that the fee may be waived by the arbitrators or returned in the arbitration award.

Selection of Arbitrators

Rule 601 provides that Exchange arbitrators shall be selected by the Chairman of the Exchange, subject to the approval of the Board. It is proposed that Rule 601 be amended to empower the Chairman to approve all arbitrators without Board approval.

This amendment would conform Amex rules to the arbitration rules of the NYSE, NASD and CBOE. Amending the rule as proposed recognizes that arbitrator selection is a managerial function, and it would allow the Exchange to quickly add new arbitrators to its roster, thereby avoiding scheduling delays. The Board will be kept apprised on a periodic basis of the Exchange's roster of arbitrators.

Disclosure of the Result of Summary Disciplinary Proceedings

In the case of formal disciplinary proceedings, Exchange Disciplinary Rule 12 requires public announcement of results unless the offense relates solely

to minor administrative requirements of the Exchange and does not materially affect the public interest or the interest of investors. Formal proceedings normally involve serious violations of Exchange rules or federal securities laws and are heard by Disciplinary Panels. Summary proceedings, which are heard by Disciplinary Committees, are typically concerned with more technical or procedural rule violations. Since the matters which come before a Disciplinary Committee generally involve offenses which fall within the two-part exception to Rule 12, such matters are not usually publicized.

However, Rule 12, is not now expressly applicable to summary proceedings. Article V, Section 1(e) of the Constitution, requires the Exchange to ". . . adopt rules governing the announcement of the result of *any* disciplinary proceeding conducted pursuant to the provisions of this Article . . ." (emphasis added) it is proposed to amend Rule 12 to make clear that the existing standard for Disciplinary Panels applies to Disciplinary Committees as well.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule changes will impose any burden on competition. The arbitration rule changes will further uniformity of regulation within the securities industry. The disciplinary rule change merely codifies existing policy.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 refer to the file number in the caption above and should be submitteted by April 30, 1985.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: March 29, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-8490 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21917; File No. SR-MSRB-85-2]

Self-Regulatory Organizations; Order Approving Rule Change by Municipal Securities Rulemaking Board

The Municipal Securities Rulemaking Board ("MSRB") on February 5, 1985 submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") to amend MSRB Rule A-12, which provides that municipal securities brokers and municipal securities dealers must pay the MSRB an initial fee, to make it clear that such a broker or dealer must comply with MSRB Rule A-12 before initiating any municipal securities activities.

MSRB Rule A-12 applies to all municipal securities brokers and municipal securities dealers, including those engaged in lines of business in addition to municipal securities activities and those effecting only occasional municipal securities transactions. At present, the rule does not specifically address the situation that arises when a securities firm that is not engaged in municipal securities activities registers with the Commission and later decides to engage in municipal securities activities.

The rule change will clarify MSRB Rule A-12. It will make explicit that payment of the initial fee is a prerequisite to engaging in a municipal securities business. It also will simplify the language of the rule by deleting the new irrelevant references to the 1975 deadline for compliance by firms already registered with the Commission by virtue of doing business in non-exempted securities. In addition, it will delete the reference to the ten day period after Commission registration for compliance by municipal securities-only firms and dealer banks which the 1975 amendments to the Act had required to register with the Commission for the first time.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 21772 (50 FR 7680, February 25, 1985). No comments on the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: April 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-8495 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23647; 70-7094]

Applications; Cleveland-Cliffs Inc., et al., Notice of Proposed Acquisition of Utility Securities

April 2, 1985.

Cleveland-Cliffs Inc. ("CCI"), 14th Floor Huntington Building, Cleveland, Ohio 44115-1448, an Ohio Corporation and The Cleveland-Cliffs Iron Company ("Cliff"), 14th Floor Huntington Building, Cleveland, Ohio, 44115-1448, also an Ohio Corporation and an exempt holding company under section 3(a)(3)(a) of the Public Utility Holding Company Act of 1935 ("Act") have filed an application with this Commission pursuant to section 3(a)(3), 9(a)(2) and 10 of the Act.

Cliffs is engaged in various development and production activities related to natural resources. Cliffs extracts, produces and processes iron ore and manages iron ore mining ventures in the United States, Canada and Australia. Cliffs also performs oil and gas contract drilling services in onshore and offshore areas of the United States and holds oil and gas exploration and production interests. Further, Cliffs is in the hardwood lumber and veneer business, participates in oil shale development ventures and provides technical and management services for resource development.

As an adjunct to its domestic activities, Cliffs owns certain electric generating facilities which provide power for its mining operations. Specifically, Cliffs has a wholly-owned subsidiary, Cliffs Electric Service Company ("Service"), a Michigan corporation, and an exempt holding company under section 3(a)(1) of the Act. Service's operations are conducted exclusively in four Michigan counties. At present, approximately 96% of the power available to Service is supplied to iron ore mines and related facilities managed by Cliffs. The remaining amount of power is sold by Service to the City of Marquette, Michigan Board of Light and Power and to Wisconsin Electric Power Company. Service is an "electric utility company" as defined in section 2(a)(3) of the Act.

Service owns 93% of Upper Peninsula Generating Company ("Generating"), a Michigan corporation and an "electric utility company" as defined in section 2(a)(3) of the Act. The remaining 7% of Generating is owned by Upper Peninsula Power Company ("Power") which is not an affiliate company of either Cliffs or Service Generating, which is managed by Power, operates a steam electric generating plant near Marquette, Michigan. The power contract among Generating, Service and Power provides that Generating will sell its electric power generating only to Service and Power. At present, Service is entitled to the power generation of units 1 and 4–9 and Power is entitled to the power generation of units 2 and 3. Each owner has agreed to pay its pro rata share of the costs and expenses of their respective units as well as provide Generating with minimum working capital.

CCI was formed in connection with a proposed corporate restructuring ("Restructuring") of Cliffs. The Restructuring involves the establishment of a holding company form of corporate organization, to be accomplished through a merger pursuant to which Cliffs will ultimately become a wholly-owned subsidiary of CCI, which will become the publicly-held parent company. Under the Agreement of Merger, each of the issued and outstanding common stock of Cliffs, par value $1.00 per share ("Cliffs Shares"), including Cliffs Shares held in the treasury of Cliffs, but excluding Cliffs Shares with respect to which dissenters' rights are exercised, will be converted into and become an equal number of common stock shares of CCI, par value $1.00 per share ("CCI Shares"), without requiring any exchange of Certificates. The consolidated financial condition of CCI immediately after the Restructuring will be substantially identical to that of Cliffs immediately prior to the Restructuring.

CCI states that pursuant to the Ohio General Corporation Law, approval and adoption of the Agreement of Merger requires the affirmative vote of the holders of two-thirds of the issued and outstanding Cliffs Shares. Adoption of the Agreement to Merger by the holders of Cliffs Shares will also constitute approval by such holders of:

(i) The Articles of Incoporation of CCI (including the authorized capital of CCI, which at the time of the Merger will consist of 28,000,000 shares of common stock, par value $1.00 per share, 3,000,000 shares of voting preferred stock, without par value, and 4,000,000 shares of non-voting preferred stock, without par value and the elimination of any preemptive rights as to both the common stock and the voting and nonvoting preferred stock) that will be in effect after the Restructuring;

(ii) the Regulations of CCI, which are substantially identical to the presently effective Regulations of Cliffs; and

(iii) the assumption by CCI of certain of Cliff's obligations under Cliffs' Investment Credit Employee Stock Ownership Plan and Restricted Stock Plan, the assumption by CCI of certain of Cliff's obligations under several agreements between Cliffs and its Directors and certain of its executive officers, and of all amendments thereto or clarifications thereof appropriate to implement such assumptions or to reflect the transformation to a holding company form of corporate organizations.

All indebtedness of Cliffs outstanding immediately prior to the time the Merger is effected will remain the indebtedness of Cliffs, and is not being assumed or guaranteed by CCI in connection with the Restructuring, except as explicity set forth herein.

Cliffs is at present a party to several lines of credit facilities and loan agreements which currently form the principal sources of borrowings of funds which may be necessary or descriable in connection with the business activities conducted at present by Cliffs through its divisions, subsidiaries and affiliated entities. It is contemplated that, either prior to or after the Merger, CCI would undertake discussions with the lenders involved in such arrangments, which discussions may lead to the replacement of some or all of these arrangements with similar lines of credit facilities, loan agreements or both, with CCI being substituted for Cliffs as the borrowers thereunder.

In the application CCI also requests that it be granted an exemption under section 3(a)(3) of the Act and Cliffs requests that it be permitted to retain its section 3(a)(3) exemption. These two requests will be noticed at a later time.

The application and any 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 April 29, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on CCI at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, with respect to the section 9(a)(2) request, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–8489 Filed 4–8–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14451; 812–5993]

DBL Tax-Free Cash Fund Inc.; Notice of Application for Exemptive Order Relating to Acquisition of Puts

April 3, 1985.

Notice is hereby given that DBL Tax-Free Cash Fund Inc. (the "Fund"), 60 Broad Street, New York, New York 10004, an open-end, diversified management investment company registered under the Investment

Company Act of 1940 (the "Act"), filed an application on November 27, 1984, and amendments thereto on February 15, and March 25, 1985, for a Commission order, exempting the Fund's Limited Term Portfolio from the provisions of Section 12(d)(3) of the Act to permit acquisition of standby commitments from brokers or dealers. 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 to the Act for the text of the provisions cited in the application.

The Fund states that its Limited Term Portfolio (the "Portfolio") seeks the highest level of income exempt from federal income taxes to the extent consistent with the preservation of capital by investing principally in high quality tax-exempt limited-term securities issued by state and municipal governments and by public authorities ("Municipal Obligations"). The Portfolio expects to maintain a dollar-weighted average portfolio maturity of three to six years and will only purchase instruments with remaining maturities of ten years or less.

The Fund represents that, to improve its liquidity and ability to pay redemption proceeds, the Portfolio may enter into "standby commitments" with brokers, dealers or banks under which the issuer would agree to purchase a specified Municipal Obligation at a specified price ("Puts"). The Fund represents further that each Put will be: (1) In writing and physically held by the Fund's custodian; (2) exercisable by the Portfolio at any time prior to the maturity of the underlying securities; (3) entered into only with brokers, dealers and banks which, in the opinion of the Fund's investment manager, present minimal risks of default; (4) unconditionally and unqualifiedly exercisable at the Portfolio's option; (5) non-transferable, although Municipal Obligations purchased subject to Puts may be sold to a third party at any time, even though the Puts remain outstanding; and (6) exercisable at a price equal to (i) with respect to Municipal Obligations having remaining maturities of 60 days of less, (a) the Portfolio's acquisition cost of the Municipal Obligations subject to Puts (excluding any accrued interest which the Portfolio paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period the Portfolio owned the securities, plus (b) all interest accured on the securities since the last interest payment date during the period the securities were owned by the Portfolio, and (ii) with respect to all other Municipal Obligations, (a) the market value of the Municipal Obligations subject to Puts (excluding any accrued interest which the Portfolio paid on their acquisition), plus (b) all interest accured on the securities since the last interest payment date during the period the securities were owned by the Portfolio.

The Fund expects that Puts will generally be available without the payment of any direct or indirect consideration. However, the Fund states that, if necessary and advisable, the Portfolio will pay for Puts, either separately in cash or by paying a higher price for portfolio securities which are acquired subjects to Puts. The Fund represents that the total amount paid for outstanding Puts will not exceed ½ of 1% of the value of the Portfolio's total assets calculated immediately after any Put is acquired. During the term of a Put, it will be difficult to evaluate the likelihood of its exercise or the potential benefit to the Portfolio should the Put be exercised. In light of such uncertainties, all Puts held by the Portfolio will be valued at zero. The cost of a Put will be reflected as unrealized depreciation for the period during which the Put is held by the Protfolio.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that the proposed acquisition of Puts will not affect the Portfolio's net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to promptly meet redemptions. Applicant's investment manager intends to evaluate periodically the credit of institutions issuing Puts to the Portfolio.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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 the Fund 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.

John Wheeler,

Secretary.

[FR Doc. 85-8492 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14449; File No. 812-6016]

Libra Bank PLC; Application and Opportunity for Hearing

April 3, 1985.

Notice is hereby given that Libra Bank PLC ("Applicant" formerly named Libra Bank Limited), c/o Lawrence Hohlt or Abraham Zylberberg, Sage Gray Todd & Sims, Two World Trade Center, 100th Floor, New York, New York 10048, has filed an application on Januray 7, 1985, and an amendment thereto on March 26, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission, exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for a statement of the relevant provisions thereof.

Applicant states that it is a commercial bank organized under the United Kingdom's Company Act of 1948 and is subject to the United Kingdom's Banking Act of 1979 (the "1979 Act"). Applicant represents that it is headquartered in London, England and maintains offices in Latin America as well as a state-licensed agency in New York. Applicant was formed in 1972 by a multinational consortium of banks, with the specific objective of mobilizing and channeling capital resources to Latin America and the Caribbean region.

As of December 31, 1983, Applicant states that it has total assets of approximately $2.6 billion of which approximately 73% consisted of loans. Also, income from loans accounted for approximately 81% of Applicant's total revenues of $295 million.

According to the application, Applicant is subject to the general supervisory oversight of the Bank of England. Under the Bank of England Act of 1946 (the "1946 Act"), the Bank of England is broadly empowered to request information from and make recommendations to banks and issue directives requiring compliance with such requests or recommendations. The Bank of England's general powers under

the 1946 Act are supplemented by the 1979 Act.

Applicant asserts that under the 1979 Act, deposit-taking institutions must be authorized by the Bank of England, and must meet general statutory criteria pertaining to management and solvency. Applicant believes that regulation of the United Kingdom banking system is largely based upon informal cooperation between the Bank of England and United Kingdom banks and operates through a number of accepted practices and standards that have been developed over time. Banks file regular, detailed reports and periodic statistical returns prescribed by the Bank of England. These reports include, among other things, information concerning directors, controllers, foreign exchange activities, advances, and an analysis of sterling and foreign currency assets and liabilities. In accordance with the 1979 Act, the Bank of England has introduced formalized codes relating to the adequacy of capital, liquidity and foreign currency exposure.

By virtue of Applicant's maintenance of an agency in New York State, Applicant contends that it is subject to regulation by the Board of Governors of the Federal Reserve System (the "Board") because of the International Banking Act of 1978 (the "IBA"). The IBA permits the Board to regulate the type of activities in the United States in which Applicant may engage. Under the IBA, Applicant is required to file annual reports with the Board on its operations and financial condition, including full information on earnings, reserves and capital, accompanied by an explanation of material differences between United States and foreign accounting practices. Applicant is also required to furnish such additional information as the Board may request.

Applicant's New York agency is licensed by the Superintendent of Banks of the State of New York (the "Superintendent") under sections 200 and 201 of the New York Banking Law. In order to be licensed, a foreign bank must submit documents as to the nature of its business, key personnel and its financial condition. Upon receipt of a properly completed license application, the Superintendent conducts a detailed investigation of the foreign bank, its reputation and assets. The examination is similar to the kind conducted by the Superintendent when a New York State chartered bank is established.

Applicant states that the commercial paper proposed to be issued and sold in the United States will be evidenced by short-term notes ("Notes") and will provide Applicant with an alternative source of United States dollars funds to supplement its other sources. The Notes will have those characteristics, including a maturity of not more than 270 calendar days and a minimum denomination of not less than $100,000, which will enable them to qualify for the exemption from registration under section 3(a)(3) of the Securities Act of 1933 ("1933 Act"). Furthermore, the Notes will be prime quality negotiable commercial paper and contain no provision for payment on demand, extension, renewal or automatic "roll-over". Applicant presently anticipates that during the first year in which the Notes are sold, the aggregate amount of Notes outstanding at any one time is unlikely to exceed $200,000,000.

Applicant does not propose to register the Notes under the 1933 Act. However, Applicant will not offer or sell any Notes in the United States until it has received a written opinion from its United States counsel stating that the Notes are entitled to the section 3(a)(3) exemption. Applicant does not request the Commission's review or approval of such opinion. The Notes and any future issue of Applicant's securities will receive prior to issuance one of the three highest short-term investment grade ratings from at least one of the nationally recognized statistical rating organizations and Applicant's United States counsel will certify in writing of such rating. No such rating will be obtained, however, if in the opinion of Applicant's United States counsel, an exemption from registration is available under section 4(2) of the 1933 Act.

The Applicant represents that its notes will be direct liabilities of Applicant and will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated indebtedness of Applicant, including deposit liabilities (other than indebtedness to the United Kingdom to the extent such indebtedness is preferred by operation of law). The notes will rank prior to any subordinated indebtedness of Applicant and to the rights of shareholders. The notes will be sold through one or more of the registered securities dealers to the types of institutional and other sophisticated investors that ordinarily participate in the United States commercial paper market.

Applicant undertakes to ensure that each offeree who has indicated an interest in Applicant's Notes, and prior to any sale of the Notes to such offeree, will be provided with a memorandum that describes Applicant's business and contains a recent balance sheet and income statement of Applicant. The memorandum and financial statements will be as comprehensive as those customarily used in commercial paper offerings in the United States describing any material differences between accounting principles applicable to United Kingdom banks and generally accepted accounting principles applicable to United States commercial banks and updated periodically to reflect material changes in Applicant's financial status.

While it has no present intention of doing so, Applicant may in the future offer other debt securities for sale in the United States. Any such future offering by Applicant in the United States will be made pursuant to a registration under the 1933 Act or pursuant to an applicable exemption from registration under the 1933 Act. The future offering will be made on the basis of a disclosure document appropriate and customary for such registration or exemption and in any event as comprehensive as those used in offerings of similar debt securities by issuers in the United States. Applicant undertakes to ensure that such a disclosure document will be provided to each offeree who has indicated an interest in such securities prior to any sale except in the case of an offering made pursuant to a registration statement under the 1933 Act.

Applicant represents that it will appoint a bank or trust company having an office in New York City as agent to issue the Notes on behalf of Applicant. Applicant will expressly submit to the jurisdiction of those New York State and United States federal courts which sit in the City and County of New York for the purpose of any action brought on the Notes. Applicant also submits that it will be subject to suit in any other court in the United States which shall have jurisdiction over Applicant by virtue of the manner of the offering of the Notes or otherwise. Such submission to jurisdiction will also pertain to any future debt offerings in the United States. Applicant will appoint an agent to accept service of process in any proceeding.

Applicant asserts that the application is consistent with the protection of investors, and necessary and appropriate in the public interest because the particular abuses against which the Act was directed, such as excessive management and brokerage fees, investments in companies in which the investment company management has a personal interest and other forms of self-dealing, were thought not to be prevalent in the commercial banking industry. Applicant further asserts that its activities are regulated and overseen by banking authorities in the United Kingdom and to some extent by the

United States Government and New York State banking authorities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, 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 Applicant 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.

John Wheeler,

Secretary.

[FR Doc. 85-8491 Filed 4-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21918; File No. 4-260]

Self-Regulatory Organizations; Order Approving Plan by the American Stock Exchange, Inc.

The American Stock Exchange, Inc. ("Amex") submitted on September 11, 1984, copies of a proposed plan pursuant to Rule 19d-1(c)(2) under the Securities Exchange Act of 1934 ("Act").[1] The proposed plan specifies those uncontested minor rule violations with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) under the Act requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person. In accordance with paragraph (c)(2) of Rule 19d-1, Amex proposed to designate as minor rule violations certain specified rule violations under Amex's two automatic fine systems, and requested that it be relieved of the current reporting requirement regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. According to Amex, the quarterly notice for each violation would list the name of the member or member organization, the nature and date of the violation, the sanction imposed, and the date of disposition.

Amex's minor rule infraction fine system and its reporting violation fee system are the two systems of fines encompassed by the proposed plan. Under the minor rule infraction fine system, the uncontested minor rule violations included in the proposed plan are as follows:[2]

(1) Floor decorum violations;[3]

(2) The following on floor/off floor operational violations:[4]

(a) A specialist's failure to be properly represented at the trading post at scheduled times to answer inquiries regarding the status of orders and resolve equity DK notices;[5]

(b) A specialist's failure to respond to inquiries regarding unreported PER/AMOS automated order routing market orders;[6]

(c) Failure to submit option trade comparison data to the Exchange by specified deadlines;

(d) Failure to be represented at the Exchange's options reconciliation room at scheduled times to resolve rejected options trades; and

(e) Failure to provide the required options audit trail information on trade comparison input.

Floor governors and exchange officials are authorized under minor rule infraction fine system to charge members and member organizations whith floor decorum and operational violations and to assess fines ranging from $50 for a first offense to $500 for a sixth offense.

Officials under Amex's reporting violation fee system [7] can impose a fee of $50 per day for the late filing of reports periodically specified by the Exchange. According to Amex, currently twelve reports,[8] primarily in the financial and market surveillance areas, are subject to the system. Under both the reporting violation fee system and the minor rule infraction fine system, members or member organizations may plead guilty and pay the fine or contest the charge and request a hearing before the Exchange's Disciplinary Committee.[9]

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[1] In Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23628 (June 8, 1984), the Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to a plan filed with the Commission shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the SRO with respect to the matter.

[2] *See* Securities exchange Act Release No. 17071 (August 18, 1980), 45 FR 56218 (August 22, 1980) (SR-Amex-80-22), in which the Commission approved Amex's proposed rule change to revise its procedures for the disposition of minor rule violations and to include non-compliance with off-floor operational matters as a minor rule violation.

[3] Amex defines floor decorum violations as any act or omission which tends to disrupt the orderly conduct of business on its trading floor or which causes serious interference with the personal comfort or safety of other persons on the floor. Examples of floor decorum violations include running on the trading floor, smoking in unauthorized areas, and the throwing of objects and obstructions on the floor. The floor decorum violations included in the Exchange's minor rule infraction fine system already are exempt from reporting under Rule 19d-1(c)(1). *See* Securities Exchange Act Release No. 17085 (August 22, 1980), 45 FR 57707 (August 29, 1980).

[4] On September 1, 1982, the SEC granted an Amex request that it be permitted to file quarterly reports with respect to its minor operational and reporting violations. *See* letter from Michael J. Kulczak, Branch Chief, Division of Market Regulation, to J. Bruce Ferguson, Assistant Vice President, Amex, dated September 1, 1982. *See also* letter from Richard O. Scribner, Executive Vice President, Amex, to Michael A. Cline, Branch Chief, Division of Market Regulation, dated August 7, 1981, in which Amex requested that an exemption from the notice provision of Rule 19d-1 be granted for uncontested minor rule violations covered by its existing minor disciplinary infraction fine system and its fee system for certain reporting violations. By including this arrangement in this minor rule violation plan filed under Rule 19d-1, Amex formalizes the existing agreement with the Commission.

[5] When comparison information is received on certain transactions and the recipient has no knowledge of the transaction the comparision is stamped "Don't Know," ("DK"), dated and initialed, and the comparision form so stamped is returned immediately to the seller, the Amex has facilities, and its rules specify procedures, for the resolution of such uncompared trades as promptly as possible.

[6] The Post Execution Reporting System ("PER") automatically routes market orders and reports and day market and limited price odd lot orders and reports between member firm offices and trading posts. The Amex Options Switch System ("AMOS") automatically routes limited price option day orders and reports between member firm offices and trading posts on the Amex floor. Both systems are designed to improve order flow and execution reporting, and to reduce operating costs of subscribing member organizations.

[7] The Amex fee system for certain reporting violations under Amex Rule 30 was approved by the Commission in Securities Exchange Act Release No. 18827 (June 21, 1982), 47 FR 18190 (June 29, 1982) (SR-Amex-81-15).

[8] The following 12 reports are subject to the reporting violation fee system: (1) Exam 12 (Report of financial condition); (2) Equity Computation; (3) Net Capital Computation; (4) X-17A-5, Part II (FOCUS Report); (5) X-17A-5, Part I (FOCUS Report); (6) X-17A-5, Part IIA (FOCUS Report); (7) X-17A-5, Part IIA (Short form FOCUS Report); (8) MO 14 and MO 15 (Specialist financial reports); (9) Form 958-C (Registered Options Trader and Specialist Report of orders entered in underlying securities related to Amex options); (10) Form 50 (Short Postion); (11) 1-RA (Exchange transactions initiated from off-floor); and (12) 1-S (Round lot short sales transactions).

[9] As noted above, only uncontested violations are eligible for abbreviated periodic reporting under Amex's proposed plan.

Notice of the proposed plan, together with the terms of substance of the proposed plan was given by the issuance of a Commission release (Securities Exchange Act Release No. 21757, February 13, 1985) and by Publication in the **Federal Register** (50 FR 7245, February 21, 1985). No comments were received with respect to the proposed plan.

The Commission finds that the proposed plan is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, with the requirements of section 6(b)(5) dealing with the promotion of just and equitable principles of trade, the facilitation to transactions in securities, and the protection of investors and the public interest, and with the requirements of section 19(d) which warrant the periodic reporting of uncontested minor disciplinary violations which are deemed not final under the Act.

It is therefore ordered, pursuant to Rule 19d-1(c)(2) under the Act, that the above-mentioned proposed plan be, and hereby is, approved.

For the Commission, by the Division of Market Regulation Pursuant to delegated authority.

John Wheeler,

Secretary.

April 3, 1985.

[FR Doc. 85-8494 Filed 4-8-85; 8:45 am]

BILLING CODE 8717-01-M

[Release No. 34-21915; File Nos. SR-NASD-85-7, SR-AMEX-85-2]

Self-Regulatory Organizations; Proposed Rule Changes by National Association of Securities Dealers, Inc., and American Stock Exchange, Inc., Relating to Proxy Solicitation Surcharges

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 25, 1985, the American Stock Exchange, Inc. ("Amex") and on March 27, 1985, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission the proposed rule changes as described herein. The Commission is publishing this notice to solicit comments on the NASD's proposed rule change from interested persons.[1] As discussed below, the Commission has approved both proposed rule changes on an accelerated basis.

II. Description of Proposals

The proposed rule changes would establish a surcharge that Amex and NASD members may impose on issuers for forwarding materials to beneficial owners of their issues. The proposed surcharge would be twenty cents for each set of proxy materials mailed as a unit during the next year. Under the NASD proposal, the surcharge could be imposed between April 1, 1985 and March 31, 1986. The Amex and the NASD state that they have submitted the proposals to comply with rules, discussed *infra*, recently adopted by the Commission that are intended to improve the ability of issuers to identify and communicate with their securityholders whose securities are held in "street name". According to the Amex, the proposed amendments to Amex Rule 576 (Transmission of Proxy Materials to Customers) are consistent with section 6(b) of the Act in general, and further the objectives of section 6(b)(4) in particular in that the surcharge is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The NASD believes that its proposed rule change is consistent with section 15A(b)(5) of the Act because it provides for the equitable allocation of reasonable dues, fees, and other changes among members and issuers.

III. Prior Commission Action

As noted, the Commission amended two of its rules to improve communications between issuers and seccurityholders whose securities are held in street name.[2] The Commission adopted Rule 14b-1(c) (17 CFR 240.14b-1(c)) requiring brokers to provide issuers, upon request and assurance of reimbursement of reasonable expenses (direct and indirect), with the names and addresses and securities positions of customers who are beneficial owners of the issuers' securities and who have not objected to such disclosure. The Commission also adopted a corresponding amendment to Rule 17a-3(a)(9) (17 CFR 240.17a-3(a)(9)) requiring that the customer records maintained by the broker for street name holders include whether the beneficial owner has objected to the disclosure to issuers of his or her identity, address, and securities position.[3] The Commission left the determination of the reasonable costs of compliance to the self-regulatory organizations ("SROs").[4] The Amex and NASD proposals are essentially similar to the surcharge proposed by the New York Stock Exchange, Inc. ("NYSE") based on the recommendation of one of its committees.[5]

IV. Request for Public Comment on the NASD Proposal

Interested persons are invited to submit written data, views and arguments concerning the NASD proposal. 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 NASD's 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 NASD's 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 30, 1985.

V. Discussion

As noted above, the NYSE submitted a proposed rule change that is essentially the same as the Amex and NASD proposals. The Commission has considered that proposal and approved it as consistent with the Act and the rules and regulations thereunder.[6] The

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[1] Notice of the Amex proposal was given by issuance of a Commission release (Securities Exchange Act Release No. 21820, March 8, 1985) and by publication in the **Federal Register** (50 FR 9930, March 12, 1985). No comments have been received with respect to the Amex proposed rule change.

[2] Securities Exchange Act Release No. 20021 (July 28, 1983), 48 FR 35082 (August 3, 1983).

[3] The Commission deferred the effective date of these rules until January 1, 1986. Securities Exchange Act Release No. 21339 (September 21, 1984), 49 FR 36096 (September 27, 1984).

[4] Securities Exchange Act Release No. 20021 (July 28, 1983), 48 FR 35082 (August 3, 1983).

[5] File No. SR-NYSE-85-2, published for comment in Securities Exchange Act Release No. 21702 (February 1, 1985), 50 FR 5461 (February 8, 1985).

[6] Securities Exchange Act Release No. 21900 (March 28, 1985). The NYSE's and Amex's original proposal provided that the start-up costs associated with the implementation of the direct shareholder communication rules be funded by a surcharge of $.20 per proxy for each of an issuer's two annual meeting proxy solicitations subsequent to the approval of the surcharge. At the request of the Commission staff, the NYSE and Amex have modified their original proposals to apply the

Continued

Commission also has reviewed that Amex and NASD proposals and finds that they are consistent with the requirements of the Act and the rules and regulations thereunder. The Commission finds the Amex proposed rule change to be consistent with Section 6(b) of the Act and in particular with section 6(b)(4) which requires exchange rules to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In addition, the Commission finds that the NASD's proposed rule change is consistent with section 15A(b) (5) of the Act, which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers.

VI. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds good cause for approving the proposed rule changes prior to the 30th day after publication in the **Federal Register.** The NASD has requested accelerated approval because it believes that the proposal should be effective immediately to permit members to recoup costs associated with complying with Rules 14(b)–1(c) and 17a–3(a)(9)(ii) during the 1985 proxy "season." In addition, the NASD believes its members would be benefitted if the implementation of its proposal coincides with the Commission's approval of similar proposals submitted by other SROs. The Commission concurs with the NASD, and also believes that issuers and the public would benefit if each of the SRO proposals can be implemented simultaneously. The Amex and the NASD proposals raise no new issues not also raised by the NYSE proposal. Thus, the public has had many prior opportunities to comment on the issues raised by the proposals and further comment prior to approval is unnecessary.[7] The Commission also believes that approving these proposals to coincide with the approval of the NYSE's similar proposed rule change would protect investors and would be in the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(12).

John Wheeler,

Secretary.

April 1, 1985.

[FR Doc. 85–8487 Filed 4–8–85; 8:45 am]

BILLING CODE 8717–01–M

surcharge for only one year. The Commission will require more cost data in connection with future proposals for additional surcharges for next year's proxy dissemination. *See* letters from James E. Buck, Secretary, NYSE, and Michael S. Emen, Vice President, Amex, dated March 14, 1985 and March 25, 1985, respectively, to Michael Cavalier, Branch Chief, Division of Market Regulation, SEC. *See also* Securities Exchange Act Release No. 21900, Notes 6–8 and accompanying text.

[7] The Commission notes that the Amex proposal was published in the **Federal Register** on March 12, 1985, and no comments have been received. *See* note 1, *supra.*

DEPARTMENT OF STATE

Export-Import Bank; Denial of Applications; Libya

Pursuant to Subsection 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended, and in accordance with the authority delegated to the Secretary of State by Executive Order 12166, I hereby determine that denial by the Export-Import Bank of applications for credit with respect to Libya for non-financial or non-commercial considerations would clearly and importantly advance United States policy in combatting international terrorism and would be in the national interest.

This determination shall be published in the **Federal Register.**

George P. Shultz,

Secretary of State.

March 23, 1985.

[FR Doc. 85–8412 Filed 4–8–85; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 85–4–9; Docket Nos. 42540, 42541]

Application of Air Mid-America, Inc., for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 85–4–9) Dockets 42540 and 42541.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order finding Air Mid-America fit, awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation, and dismissing its application for authority to engage in scheduled foreign air transportation.

DATES: Persons wishing to file objections shall do so no later than April 30, 1985; answers to objections shall be filed no later than May 10, 1985.

ADDRESSES: Objections and answers to objections should be filed in Dockets 42540 and 42541 and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, D.C. 20590, and should be served upon the persons listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Juliana M. Winters, Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4116, Washington, D.C. 20590, (202) 426–7631.

SUPPLEMENTARY INFORMATION: The complete test of Order 85–4–9 is available from our Documentary Services Division at the address above. Persons outside the metropolitan area may send a postcard request for Order 85–4–9 to that address.

Dated: April 3, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–8500 Filed 4–8–85; 8:45 am]

BILLING CODE 4910–62–M

[Order 85–4–11; Docket No. 42858]

Application of Skybus, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 85–4–11) Docket 42858.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order finding Skybus fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation; denying a request by New York Airways that the Department should not authorize any authority that infringes on its "Sky Bus" service mark; and denying ALPA's request that the application should not be granted because it is inconsistent with the carrier's current operation plan.

DATES: Persons wishing to file objections shall do so no later than April 23, 1985 answers to objections shall be filed no later than May 3, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 42858 and addressed to the

Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington D.C. 20590, and should be served upon the persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4116L, Washington, D.C. 20590, (202) 426-7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-4-11 is available from our Documentary Services Division at the above address. Persons outside the metropolitan area may send a postcard request for Order 85-4-11 to that address.

Dated: April 3, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-8501 Filed 4-8-85; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 4, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of those submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0185
Form Number: IRS Form 4798
Type of Review: Extension
Title: Carryover of Pre-1970 Capital Losses
Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Bureau of the Public Debt

OMB Number: 1535-0014
Form Number: PD 1025
Type of Review: Extension
Title: Application for Relief on Account of Loss, Theft or Destruction of U.S. Registered Securities
OMB Number: 1535-0015
Form Number: PD 1022
Type of Review: Extension
Title: Report/Application for Relief on Account of Loss, Theft or Destruction of U.S. Bearer Securities (Organizations)
OMB Number: 1535-0016
Form Number: PD 1022-1
Type of Review: Extension
Title: Report/Application for Relief on Account of Loss, Theft or Destruction of U.S. Bearer Securities (Individuals)
Clearance Officer: Peter Laugesen, (202) 376-4102, Bureau of the Public Debt, Room 445, 999 E. Street, NW., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports Managements Office.

[FR Doc. 85-8434 Filed 4-8-85; 8:45 am]

BILLING CODE 4810-25-M

[Supp. to Dept. Circ. Public Debt Series—No. 8-85]

Treasury Notes of March 31, 1989; Series L-1989

March 27, 1985.

The Secretary announced on March 27, 1985 (50 FR 12103), that the interest rate on the notes designated Series L-1989, described in Department Circular—Public Debt Series—No. 8-85 dated March 20, 1985, will be 11¼ percent. Interest on the notes will be payable at the rate of 11¼ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-8402 Filed 4-8-85; 8:45 am]

BILLING CODE 4810-40

[Supp. to Dept. Circ. Public Debt Series—No. 9-85]

Treasury Notes of April 15, 1992; Series E-1992

March 28, 1985.

The Secretary announced on March 27, 1985 (50 FR 12105), that the interest rate on the notes designated Series E-1992, described in Department Circular—Public Debt Series—No. 9-85 dated March 20, 1985, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-8403 Filed 4-8-85; 8:45 am]

BILLING CODE 4810-40-M

[Supp. to Dept. Public Debt Series—No. 10-85]

Treasury Bonds of 2005

March 29, 1985.

The Secretary announced on March 27, 1985 (50 FR 12101), that the interest rate on the bonds designated Bonds of 2005, described in Department Circular—Public Debt Series—No. 10-85, dated March 20, 1985, will be 12 percent. Interest on the bonds will be payable at the rate of 12 percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-8404 Filed 4-8-85; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, April 25, 1985, at 2:30 p.m.
Thursday, May 9, 1985, at 2:30 p.m.
Thursday, May 23, 1985, at 2:30 p.m.
Thursday, June 6, 1985, at 2:30 p.m.
Thursday, June 20, 1985, at 2:30 p.m.

The meetings will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a

guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 2, 1985.

By direction of the Administrator:

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–8484 Filed 4–8–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 68
Tuesday, April 9, 1985

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

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Thursday, April 11, 1985, 9:00 a.m.—5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Director's Report
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Report
IV. Consideration of Draft Report on Comparable Worth
V. SAC Recharters
VI. Presentation on "The Anti-Democratic Right" by Irwin Suall, Director of Fact Finding, Anti-Defamation League
VII. Civil Rights Development in the Eastern Region

PERSONS TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communication Division, (202) 376-8312.

Lawrence B. Glick,
Solicitor, (202) 376-8339.
April 5, 1985.

[FR Doc. 85-8584 Filed 4-5-85; 2:56 pm]
BILLING CODE 6335-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, April 10, 1985.

LOCATION: Third Floor Hearing Room, 1111-18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Nitrosamines in Pacifiers: Status

The staff will brief the Commission on the reduction of nitrosamine levels in rubber pacifiers and industry's plans for a voluntary standard.

2. Mid Year Review

The Commission and staff will review and consider the status of CPSC's Fiscal Year 1985 Operating Plan.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20270 301-492-6800.

Dated: April 4, 1985.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 85-8498 Filed 4-4-85; 4:13 p.m.]
BILLING CODE 6355-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 8, 15, 22, and 29, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 8

Thursday, April 11

2:00 p.m.
  Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (PUBLIC MEETING)
3:30 p.m.
  Affirmation Meeting (Public Meeting) (if needed)

Week of April 15—Tentative

Tuesday, April 16

10:00 a.m.
  Discussion of Low Level Waste Issues (Public Meeting)

Thursday, April 18

9:30 a.m.
  Briefing on TMI-1 Steam Generator and Other Plant Matters (Public Meeting)
11:15 a.m.
  Affirmation/Discussion and Vote (Public Meeting)
  a. Indian Point Order (tentative)

Week of April 22—Tentative

Tuesday, April 23

10:00 a.m.
  Discussion of Pending Investigations (Closed—Ex. 5 & 7)
11:00 a.m.
  Discussion of Diablo Canyon-2 Contested Issues (Closed—Ex. 10) (Tentative)
2:00 p.m.
  Discussion/Possible Vote on Diablo Canyon-2 Low Power License (Public Meeting)

Thursday, April 25

2:00 p.m.
  Affirmation Meeting (Public Meeting) (if needed)

Week of April 29—Tentative

Wednesday, May 1

2:00 p.m.
  Periodic Briefing on NTOLs (Open/Portion may be Closed—Ex. 5 & 7)

Thursday, May 2

10:00 a.m.
  Discussion of Modified Rule on Material False Statements (Public Meeting)
3:30 p.m.
  Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "TMI-1—Aamodt Motion for Reconsideration and Reopening of the Record" scheduled for April 4, *postponed.*

Discussion of Indian Point Order (Public Meeting) scheduled for April 2 *moved* to April 4.

Discussion of Environmental Qualification of Electrical Equipment—Status of Compliance with Rule (Public Meeting) scheduled for April 4 *moved* to April 2.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Carrado,
Office of the Secretary.
April 4, 1985.

[FR Doc. 85-8597 Filed 4-5-85; 3:44 pm]
BILLING CODE 7590-01-M

Federal Register

Tuesday
April 9, 1985

Part II

Environmental Protection Agency

40 CFR Part 250

Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 250

[SWH-FRL 2766-7]

Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing a proposed guideline for Federal procurement of paper and paper products containing recovered materials. The guideline would implement section 6002(e) of the Resource Conservation and Recovery Act (RCRA), which requires EPA to prepare guidelines to assist procuring agencies in complying with requirements of that section and designates paper as a product category for which EPA must prepare such a guideline. The purpose of this proposed guideline is to stimulate the procurement of paper and paper products containing recovered materials, thereby increasing the diversion and recovery of materials from the solid waste stream. The guideline recommends procedures for Federal agencies to follow in drafting or reviewing product specifications. The proposal also recommends practices for procuring agencies to use in establishing an affirmative procurement program for paper and paper products containing recovered materials that maximizes the use of postconsumer recovered materials.

DATES: Comments must be submitted on or before June 10, 1985.

ADDRESSES: Comments should be addressed to RCRA Docket Clerk, Office of Solid Waste (WH-565A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the docket number, which is "Section 6002."

The public docket is located in Room S212-A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, 800-424-9346; or William Sanjour, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-4502.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency (EPA) is today proposing the second of a series of guidelines designed to encourage the use of products containing materials recovered from solid waste. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or "Act"), as amended, 42 U.S.C. 6962, required Federal, State, and local procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practicable. Under Section 6002(e), EPA must prepare guidelines to assist these agencies in complying with the requirements of this section. Section 6002(e) specifically requires that EPA prepare a guideline for the procurement of paper containing recovered materials.

The estimated 45.5 million tons of postconsumer wastepaper generated annually in the United States constitute approximately 30 percent of the current tonnage of municipal solid waste. Any increase in the utilization rate of wastepaper in the production of paper and paper products that can be stimulated by Federal procurement policy will further the objective of Section 6002.

The first of this series of guidelines, Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash (40 CFR Part 249), was published in the **Federal Register** on January 28, 1983 (48 FR 4230). The preamble to that guideline explained EPA's regulatory strategy for fulfilling its responsibilities under Section 6002 of RCRA.

The preamble to the fly ash guideline explained the objectives of RCRA and the requirements of Section 6002 (48 FR 4230). Since the Agency received and addressed public comments on the goals and requirements of Section 6002 in conjunction with the final promulgation of the fly ash guideline, no further comment on these issues is solicited in this proposal.

As indicated in the preamble to the fly ash guideline, EPA prepares guidelines for items containing recovered materials that have been designated by the Administrator under Section 6002(e) after consideration of certain factors. Because, however, Section 6002(e) specifically directs the Administrator to prepare a guideline for paper, it is not necessary for EPA to take administrative action designating paper as an appropriate subject for a guideline; Congress has already made that determination.

The Federal Government's commitment to increased purchases of paper and paper products containing recovered materials may encourage manufacturers to increase the amount of recovered materials in their products. This proposed guideline could have a positive effect on public attitudes and consumers' acceptance of paper and paper products containing recovered materials.

The major Federal purchasers of paper, and, therefore, the agencies most likely to be affected by the proposed guideline, are: the Government Printing Office (GPO), which operates under the direction of the congressional Joint Committee on Printing (JCP); the General Services Adminstration (GSA); and the Department of Defense (DOD). On advice of its Committee on Paper Specifications, which includes representatives from GPO, JCP adopts specifications and standards for printing and writing grades of paper. GSA adopts specifications for all other paper products. DOD further reviews these standards and drafts additional specifications, as necessary, to establish military standards for some of the items it procures.

While this guideline was being developed, Congress amended Section 6002 of RCRA as part of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616 [Nov. 8, 1984]). These amendments have been incorporated into the guideline.

The Agency invites comments on all issues covered in the preamble, the proposed guideline, and the supporting documents, which can be found in the rulemaking docket.

II. The Guideline

Statutory Requirements

The proposed guideline explains requirements and makes recommendations to procuring agencies (which include Federal, State, and local agencies, grantee, and contractors) for carrying out the provisions of Section 6002 regarding the procurement of paper and paper products containing recovered materials. The Act applies to procurements involving $10,000 or more of appropriated Federal funds, and the guideline defines direct and indirect purchases to which the provision of the Act apply.

Section 6002(c) of the Act requires procuring agencies to procure "items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition," considering the guidelines issued by EPA, if reasonable levels of performance, cost, and availability can

be achieved. Section 6002(c) also requires procuring agencies to obtain from suppliers an estimate and certification of the percentage of such materials contained in their products.

Section 6002(d)(1) of RCRA requires agencies that draft or review specifications for procurement items to eliminate any exclusion of recovered materials and any requirement that items be manufactured from virgin materials, while section 6002(d)(2) requires procuring agencies, after EPA publishes each guideline, to assure that their specifications for procurement items covered by that guideline "require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item."

Section 501(a) of the Hazardous and Solid Waste Amendments of 1984 (to be codified as section 6002(i) of RCRA) requires each procuring agency, after EPA publishes a guideline, to "develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law." The affirmative procurement program must consist of four elements: (1) A preference program for paper and paper products containing postconsumer recovered materials; (2) an agency program to promote the preference program; (3) a program for estimating, certifying, and verifying the recovered materials content; and (4) annual review and monitoring of the effectiveness of the affirmative procurement program. Section 501(a) of the Amendments states that, in the case of paper, the recovered materials preference program must provide for the maximum use of postconsumer recovered materials.

Under the proposed guideline, agencies would be required to: (1) Revise their specifications to eliminate any that discriminate against the use of recovered materials and to adopt those requiring the use of recovered materials to the maximum extent practicable; and (2) develop an affirmative procurement program for recovered materials, as described above (including certification and estimation procedures). EPA believes that compliance with these two requirements would constitute compliance with the general procurement, certification, and estimation requirements of section 6002(c), the specification revision requirements of section 6002(d), and the requirement to develop an affirmative procurement program to be codified in section 6002(i).

Scope

The Agency believes that the inclusion of as many items as possible within the scope of the guideline will encourage the paper industry to increase and improve the production of paper and paper products containing recovered materials. Thus, all major paper and paperboard purchase categories are included within the scope of this guideline.

The Agency considered comments by GPO and representatives of the printing industry indicating that performance standards for certain grades of fine printing and writing paper cannot currently be met by paper containing recovered materials. It was suggested that EPA exclude these papers on an item-by-item basis. It was also suggested that certain items, such as surgical masks, that must meet stringent standards of noncontamination be individually excluded. EPA concludes that the language of section 6002(d)(2) of RCRA, which requires the "use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item," allows the exclusion of an item when performance standards cannot be met if recovered materials are used in the product. Thus, while the guideline does not specifically exclude any items based on this criterion, it allows a procuring agency to omit the requirement to include recovered materials from the specification for an item on the basis of standards related to performance. EPA suggests a procedure for documenting such an exclusion in § 250.12(d) of this guideline.

Applicability

The requirements of section 6002 generally apply to "procuring agencies," which are defined in section 1004 as "any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract." Under section 6002(a), the affirmative purchasing requirements apply to any purchase by a procuring agency exceeding $10,000 or to purchases where the quantity of "functionally equivalent" items purchased in the preceding fiscal year exceeded $10,000. The Agency's interpretation of this requirement is described in more detail below. EPA believes that the proposed interpretation will provide an effective program without imposing an unreasonable bookkeeping burden on the purchasers and users of paper and paper products.

Direct Purchases

For the purpose of this guideline, purchases made as a result of a solicitation by a procuring agency either for its own general use or that of other agencies (for example, GSA purchases) are considered "direct." EPA believes that a contract for printing is, in part, a paper procurement action because the type of paper to be used is explicity stated in the contract. (Labor and overhead expenses involved in printing would be considered a service.) Therefore, a Federal agency that provides printing services to other governmental agencies would be subject to this guideline. The guideline leaves the method of calculating the value of paper used in performing a printing contract to the discretion of the agency awarding that contract. This provides wide latitude. GPO has stated that the value of the paper may be as low as 20 percent or as high as 80 percent of the contract. The value allocated to the paper used in the performance of the printing contract would determine the applicability of the guideline: if that value is $10,000 or more, the guideline would apply.

Indirect Purchases

As stated previously, section 6002 of RCRA and the proposed guideline apply to procurement actions by agencies other than Federal agencies if they expend appropriated Federal funds. Thus, if Federal funds are used to establish or maintain a program or activity by a state, local government, contractor, or grantee that is separate from a continuing program, and if accounts are kept separately from other accounts, the requirements of section 6002 and the provisions of the guideline would apply to any paper procurement for that program or activity if it meets the $10,000-threshold. If, however, Federal funds are used to support continuing programs and activities, and it is not possible to separate such funds from other receipts, these requirements would not apply. For example, if a city Housing Authority receives a Federal grant to build and maintain a housing project and uses $10,000 of the funds for stationery, leases, or brochures, the provisions of the guideline would apply. On the other hand, if the Housing Authority receives a disbursement of Federal funds from a block grant for general support of its continuing programs, and no separate accounting for specific items is maintained, the

provisons of the guideline would not apply.

The $10,000 Threshold

The procurement requirements of section 6002(a) apply to any purchase of a "procurement item" or "functionally equivalent" procurement items costing $10,000 or more. In common usage, terms such as "paper" and "boxes" include many items manufactured to meet different performance standards. They may not, therefore, technically be "functionally equivalent" (for instance copy paper cannot be used for offset printing). The variations in grades and types of paper products are numerous. The JCP has specifications for over 50 grades of all types of paper, 23 for printing paper alone, while GSA estimates that it provides specifications for about 300 paper products. Few procuring agencies, as defined in the Act, purchase $10,000 of any one grade of paper or any one paper product, and so restricting the applicability of section 6002 to purchases based on a very technical definition of functional equivalency would limit the effectiveness of the proposed guideline in meeting the objectives of the Act.

EPA considered grouping grades of paper and types of products according to the Census Bureau (Department of Commerce) Standard Industrial Classification system, but this seemed system inappropriate for general use. Another alternative was the Federal Procurement Data Center (GSA) Product and Service Code Systems, but they appeared overly inclusive (for example, boxes, cartons, and crates constitute one reporting category). The Agency has concluded that, in the case of paper and paper products, "functionally equivalent" items should be defined as a category of items having the same or substantially similar end use. EPA has developed a proposed categorization based on the concept of similar end use. For procuring agencies making many purchases, the proposed categorization would expend the applicability of the guideline beyond a technically defined "functional equivalency" so that a greater number of procurement actions would be affected. The proposed categorization would, on the other hand, reduce the number of small entities affected because the categories represent a more limited concept of functional equivalency than the inclusive term "paper."

Under § 250.3 of the proposed guideline, each of the following groups of items would be "functionally equivalent":

—All grades and types of xerographic/copy paper;
—Newsprint;
—All grades and types of printing paper;
—Corrugated boxes, fiberboard boxes, and folding boxboard;
—Stationery, office papers (memo pads, scratch pads, and so forth), and envelopes;
—Toilet tissue, paper towels, facial tissue, paper napkins, and doilies;
—Brown papers, coarse papers, and industrial wipers.

The Agency is soliciting comments regarding this proposed categorization.

III. Specifications

General

Section 6002(d)(1) requires that, by May 9, 1988, agencies that draft and review specifications for procurement items procured by Federal agencies eliminate specifications that exclude the use of recovered materials or that require that items be manufactured from virgin materials only. Within one year after publication of this guideline, procuring agencies must assure that "such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item."

Since passage of the 1980 Amendments to section 6002(d) of RCRA, some agencies have moved to require the use of recovered materials; others have felt it sufficient to "permit" and/or "encourage" the use of "reclaimed fibers" or "recovered materials." By adding the requirement that procuring agencies establish affirmative procurement programs for items containing recovered materials, the 1984 Amendments make it clear that "permitting" or "encouraging" the use of such materials is not sufficient to assure that specifications require the maximum use of recovered materials "without jeopardizing the intended end use of the item." Federal agencies must take affirmative steps to encourage their use.

Under § 250.12 of the proposed guideline, requirements for specifications are presented. An example of the statement that should appear on all specifications is given. Under the guideline, overly stringent specifications would be revised to allow for a higher recovered materials content. Specifications need not be revised, however, "if it can be technically determined that for a particular end use a product containing recovered materials will not meet reasonable performance standards." (See § 250.13.)

Specifications Related to Performance

Some paper items, such as archival papers, certain map papers, deed papers, and face masks used in "clean rooms," cannot meet standards of performance necessary for their intended end use if they contain any percentage of recovered materials. EPA considered removing these items from coverage under the guideline, but decided that these papers would have to be excluded on an item-by-item basis since the Agency does not have the expertise to make such a technical determination. Therefore, it is recommended that individual agencies document any finding that, for a particular end use, an item containing recovered materials will not meet reasonable performance standards and reference the documentation in subsequent solicitations for bids.

Specifications Related to Contamination of Wastepaper

EPA has found that some wastepapers used in the production of fine tissue papers at mills where deinking takes place are contaminated with a specific PCB (PCB–1242). PCB–1242 was once used in the manufacture of carbonless copy paper; PCB-contaminated papers were recycled and now contaminate a portion of the wastepaper used in the manufacture of fine and tissue papers from deinked wastepaper. This contamination causes the discharge of PCB-containing wastewaters from many deink mills. In addition, papers produced at these mills may be contaminated with low levels of PCB–1242.

The Agency determined that PCB discharges are reduced by biological treatment. EPA proposed regulations for the control of PCB–1242 at deink mills producing fine and tissue papers in November 1982. (See 41 FR 52066.) The technology basis of the regulations is additional suspended solids removal. Studies conducted by EPA demonstrated that improved removal of suspended solids will result in additional reductions in the discharge of PCB's. EPA's studies have concentrated only on PCB–1242 discharges in wastewaters from deink fine and tissue mills. The Agency has no data on the PCB concentration in wastepapers or in paper produced from wastepaper. It is clear, however, that when PCB-contaminated papers are recycled for reuse in the production of papers that are again recycled, an increasingly larger quantity of papers becomes contaminated with PCB's. Agencies should recognize these risks and

consider them when implementing this guideline.

Specifications Related to Aesthetics

Representatives of recycling interests and vendors of paper and paper products containing recovered materials often state that specifications related to aesthetics, such as whiteness, brightness, and dirt count, serve as unnecessary impediments to the use of such paper. EPA suggests that agencies that draft specifications carefully review their specifications related to aesthetics to determine whether they are overly stringent for the product's intended end use and eliminate unnecessary restrictions.

New Specifications

Technological advances, which occur continuously in the paper and paperboard manufacturing industry, are causing the increased utilization of recovered materials in many products. For example, the process of manufacturing newsprint with 100 percent recovered materials has recently been perfected. In § 250.14 of the guideline, EPA recommends that agencies reviewing and revising specifications monitor such changes and issue new specifications that reflect these advances, particularly in those cases where a particular end use is currently being met only by paper that does not contain recovered materials.

Performance testing of paper containing recovered materials is a continuing activity of the American Society of Testing and Materials, the Technical Association of Pulp and Paper Industry, the Institute of Paper Chemistry, and the Forest Products Association. The proposed guideline recommends that Federal agencies make use of the results of such research in developing standards and revising specifications.

IV. Affirmative Procurement Program

Section 6002(i) of RCRA requires procuring agencies to adopt an affirmative procurement program to ensure that paper and paper products containing postconsumer recovered materials are purchased to the maximum extent practicable. Therefore, the guideline differentiates between "postconsumer recovered materials" and "other recovered materials." The definition of "postconsumer recovered materials" includes paper, paperboard, and fibrous wastes that have passed through their end usage as a consumer item or that enter and are collected from municipal solid waste. "Other recovered materials" include manufacturing wastes, forest residues, and other wastes such as dry paper and paperboard waste generated after completion of the papermaking process, obsolete inventories, and other fibrous wastes.

Recovered Materials Preference Program

The first of four requirements of the affirmative procurement program is a recovered materials preference program to maximize the use of postconsumer recovered materials. The procuring agency may implement the preference program by employing a case-by-case approach, by adopting minimum content standards, or by choosing a substantially equivalent alternative.

Section 6002(i) also requires that any affirmative procurement program be consistent with applicable provisions of Federal procurement law. From time to time, Congress has established preferential procurement programs in order to attain socioeconomic goals. Among these are the Small Business, Labor Surplus Area, and Minority Business procurement programs. EPA considered applying either or both of the mechanisms used in those programs—price preferences and set-asides—to this guideline. A price preference allows the procuring agency to pay a higher price, if necessary, for a specified product from preferred vendors. A set-aside requires the procuring agency to award a certain percentage of its contracts to preferred vendors of a product regardless of price. Price preferences and set-asides are currently being used in some State programs for the procurement of paper and paper products containing recovered materials. Insufficient factual data were available from those States to assess accurately the effectiveness and cost of their programs.

In the case of Federal preferential procurement programs that allow a price preference or a set-aside, the Agency found that each had been established under explicit statutory authority or a specific Executive Order. Neither the statutory language nor the legislative history of Section 6002 seems, however, to contemplate the adoption of either price preferences or set-asides. In fact, the legislative history of the 1984 Amendments appears to indicate that price preferences and set-asides would be unacceptable. (See remarks of Representative Hawkins, Chairman of the JCP, during the House debate on H.R. 2867, indicating that the JCP cannot accept other than the lowest priced bid, but that the JCP would give full consideration to recovered materials content in the case of tie bids. *Cong. Rec.*, H. 9161 [Nov. 3, 1983].) Therefore, rather than recommending price preferences or set-asides, the preference program recommended is a "case-by-case" policy in which the bid offering the highest postconsumer recovered materials content would be accepted in the case of otherwise identical bids, as described by Representative Wyden during the House debate on H.R. 2867. (See *Cong. Rec.*, H. 9160–61 [Nov. 3, 1983].)

The case-by-case bidding procedure proposed in the guideline can be characterized as an "open-bid" policy. Thus, bids would be solicited from all vendors, including those selling paper and paper products that do not contain postconsumer recovered materials. Vendors would be required to estimate the percentage of postconsumer recovered materials in their products. Preference would be granted first to the lowest bid. In the case of identical low bids, preference would be granted to the item containing the highest percentage of postconsumer recovered materials. If a paper or paper product containing postconsumer recovered materials is consistently offered at a competitive price, EPA recommends that the procuring agency consider adopting a minimum recovered materials content standard for that item. Through this solicitation process, the procuring agency would be assured of the lowest possible price, the maximum level of competition, and availability of the product.

Agencies may also adopt initially a program of minimum content standards for each of the items it procures, as described in section 6002(i)(3)(B), or choose a substantially equivalent alternative to the case-by-case or minimum content standards approaches. Background information that may be useful in setting minimum recovered materials content standards is available in the docket for this guideline.

Agency Promotion Program

The second requirement of the affirmative procurement program is a promotional effort by procuring agencies. The proposed guideline makes several suggestions for procuring agencies to consider for disseminating information about their preference program, such as placing notations in solicitations for bids and conducting discussions about the program at bidders' conferences and meetings. The guideline also suggests that agencies such as GSA that procure paper and paper products for use by other agencies consider noting in their catalogs those papers or paper products that contain postconsumer recovered materials.

Estimation, Certification, and Verification

The third requirement of the affirmative procurement program relates to estimates, certification, and verification: the agency must require estimates of the total percentage of recovered material utilized in the performance of a contract; certification of minimum recovered material content actually utilized, where appropriate; and reasonable verification procedures for estimates and certifications. Section 6002(c)(3) of the Act states that contracting officers must require vendors to certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount in applicable specifications or other contractual arrangements. Vendors must also estimate the percentage of recovered materials utilized in the performance of the contract. As explained earlier, EPA believes the procurement requirements of section 6002(c)(1) may be met by implementing the affirmative procurement program in section 6002(i), and, likewise, the estimation and certification requirements in sections 6002(c)(3) and (i)(2)(C) are equivalent. Therefore, procuring agencies need only develop one set of procedures for estimates and certification of postconsumer recovered materials content. This proposed guideline recommends that the forms and procedures for fulfilling these requirements be adopted concurrently with the rest of the procuring agency's affirmative procurement program.

Under these requirements, agencies that adopt the case-by-case approach recommended by this guideline would require each bid to include an estimate of the total percentage of postconsumer recovered materials that would be used in the performance of the contract. The solicitation for a contract should note that the estimated percentage of postconsumer recovered materials is a contract requirement. If the agency later adopts minimum postconsumer recovered materials content standards for certain items based on its experience procuring these items using the case-by-case approach, the minimum would be specified in the solicitation. Certification that the item meets that specification would be required from each bidder.

States with paper procurement preference programs have forms that may be used. Or, agencies may want to consider using the certification clause contained in the Federal Acquisition Regulation, § 52.223 (48 FR 42539, Sept. 19, 1983, to be codified at 48 CFR 52.223), which states: "The offeror certifies, by signing this offer, that recovered materials, as defined in section 23.402 of the Federal Acquisition Regulation, will be used as required by the applicable specifications." Attachment 403 (9/78) to GSA Standard Form 33 (Revised 3-77), as prescribed by Federal Procurement Regulations 1-16.101, also provides an example of a possible certification. EPA believes that a single certification clause would satisfy the requirements of section 6002(c).

Section 6002 also requires procedures to verify the percentages of recovered materials (or, in the case of paper, postconsumer recovered materials) in procured items. Scientific verification of fiber content is not possible, however, because recovered fibers bear the same chemical composition and form as virgin fibers. Recovered fibers tend to be shorter, but this is only a tendency and is also a characteristic of some virgin fibers. EPA considered suggesting that agencies conduct onsite inspections at the mill during the manufacturing process, but this possibility was rejected as onerous, expensive, and generally unnecessary. Industry representatives have indicated that records of materials used during a given "run" are not always accurate. These representatives have stated, however, that records are available, or could be maintained, in a form that would substantiate sufficient annual usage of recovered materials at the mill to verify the amount certified in the contract. A suggestion of certification by the mill itself was rejected as unnecessary and burdensome.

Because there is no scientific method of measuring the percentage of postconsumer recovered materials or of identifying specific fibers in paper after the manufacturing process, EPA is recommending that procuring agencies be prepared to conduct audits of mill records whenever they have reason to believe that a procured item does not contain as high a percentage of postconsumer recovered materials as the vendor certified. For instance, it may be appropriate for a procuring agency to conduct such an audit where a bidder protests a preference granted in the award of a contract based on postconsumer recovered materials content. The guideline also recommends that the procuring agency make clear in the award that the vendor or mill must consent to reasonable verification procedures.

Review and Monitoring

The fourth requirement of the affirmative procurement program is a process for annual review and monitoring of its effectiveness. This review should include an estimate of the quantity of paper or paper products purchased containing postconsumer recovered materials. Such records can provide a basis for future evaluation and modification of an agency's affirmative procurement program.

V. Price, Competition, Availability, and Performance

Section 6002(c)(1) of the Act allows a procuring agency not to procure products containing postconsumer recovered materials if it determines that such items are not reasonably available within a reasonable period of time; fail to meet the performance standards of the applicable specifications or the reasonable performance standards of the procuring agency; or are available only at an unreasonable price. EPA has considered the effect of these limitations on an affirmative procurement program and makes the following recommendations.

Price

Several factors affect the market price, or bid price, of paper and paper products containing postconsumer recovered materials in relation to the prices of products manufactured from other fibers, including the percentage of postconsumer recovered materials used, the degree of decontamination and deinking required to meet the performance standards for a specific product, and the proximity of the mill to the supply of postconsumer recovered materials or the prospective consumer. Because there is no uniform method of determining the relative price of these items other than through the competitive bidding process, this proposed guideline recommends that procuring agencies use an "open-bid" process, allowing paper and paper products containing postconsumer recovered materials to compete equally for government contracts and awards.

Section 6002 raises the issue of "reasonable" price. EPA stated in the fly ash guideline that it believed the wording of the Act implied that Congress intended that the recovered materials product may, in fact, cost more, but not much more, than the virgin materials product as long as the price is reasonable. During congressional debate on amendments to section 6002 of RCRA, the Chairman of the JCP stated, however, that he had been assured "that the lowest cost to the Government will remain the primary and controlling factor in buying paper, with considerations of recovered postconsumer waste fiber content in paper a secondary matter." (See *Cong.*

Rec., H. 9160 [Nov. 3, 1983].) EPA considers this colloquy concerning the effect of the proposed amendments on the price paid for paper as an indication of congressional intent that, in the case of paper, bids for the postconsumer recovered materials product will be given preference only if they are equal to, or less than, bids for the comparable virgin materials product. This conclusion is reflected in EPA's interpretation of the case-by-case preference program recommended in section 6002(i)(3)(A), as requiring the procuring agency to choose an item containing postconsumer recovered materials only when the bids are otherwise equal.

Competition

The existing level of competition for paper and paper products containing postconsumer recovered materials varies depending on the product. The case-by-case, open-bid approach recommended, in which bids are solicited for paper and paper products composed of other fibers as well as those containing postconsumer recovered materials, would assure competition for all potential vendors while encouraging the maximum utilization of postconsumer recovered materials by offering a preference in the bidding process for products with such materials.

Availability

The Agency does not feel that procuring agencies should have to tolerate any unusual or unreasonable delays in obtaining paper or paper products containing postconsumer recovered materials. As affirmative procurement programs prove effective, paper and paper products containing postconsumer recovered materials should become more widely and consistently available.

Performance

All products are required to meet the same predetermined performance standards and/or applicable product specifications. Under the proposed guideline, agencies should review their specifications to ensure that performance standards do not unnecessarily discriminate (directly or indirectly) against the utilization of postconsumer recovered materials. The specification review procedure recommended would also assist the agencies in eliminating any specifications that are not related to reasonable performance. (See the more detailed discussion of performance standards under "Specifications," above.)

VI. Implementation and Compliance

Under section 6002(g), the Office of Federal Procurement Policy (OFPP), in cooperation with EPA, is responsible for overseeing implementation of section 6002 of the Act and for coordinating it with other Federal procurement policies. When the final guideline is promulgated, the appropriate parts will be implemented by the Federal Acquisition Regulations.

Because of the high level of public and congressional interest in resource recovery, substantial pressure may be brought to bear on agencies that fail to comply with the intent of the guideline. Section 7002(a) of RCRA allows for citizen suits against agencies to enforce compliance. In addition, Federal procurement policy provides grievance procedures for bidders.

Effective Dates for Implementation

A section 6002(d)(1) requires that no later than May 9, 1986, procuring agencies eliminate from specifications any exclusion of recovered materials and any requirement for the use of virgin materials, except for items for which such a change would jeopardize the end use of the item. Section 6002(d)(2) requires agencies to assure that their specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item within one year of publication of the guideline. Section 6002(i) of RCRA requires procuring agencies to develop an affirmative procurement program for the procurement of paper and paper products containing postconsumer recovered materials within one year of publication of the final guideline. Section 6002(c)(3) requires that EPA designate a date by which procuring agencies shall require vendors to certify and estimate the percentage of recovered materials used in the performance of a contract. Since the affirmative procurement program must include certification and estimation provisions, this guideline proposes to require each procuring agency to implement this requirement at the same time the agency implements its affirmative procurement program.

VIII. Summary of Supporting Analyses

General

There are three major studies on the effect of a Federal policy for the procurement of paper containing recovered materials: *Can Federal Procurement Practices be Used to Reduce Solid Waste?* (Arthur D. Little, Inc., 1973); *Collection of Data Pertinent to the EPA's Development of Guidelines for Government Procurement of Paper Products Containing Recycled Materials* (Franklin Associates, Ltd., 1979); and *Evaluation of Federal Paper Procurement Practices* (Gershman, Brickner and Bratton, Inc., 1981). In addition, an economic analysis was prepared for the guideline, as was a background document.

Executive Order 12291

Under Executive Order (E.O.) 12291, proposed regulations must be classified as major or nonmajor. E.O. 12291 establishes the following criteria for a regulation to qualify as a major rule:

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

3. Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because Federal purchases of paper and paper products do not constitute a large share of those markets, industry generally does not make manufacturing decisions that are not otherwise economically feasible in order to meet Federal procurement requirements. The granting of a price preference is not recommended in the proposed guideline; therefore, product costs should not increase. Furthermore, the flexibility allowed to the procuring agencies in implementing an affirmative procurement program should make it possible to make adjustments if any adverse market dislocation or decrease in competition should occur.

Because of the number of items included in the paper and paper product categories and the number of procurement actions taken by procuring agencies each year, such agencies may find it necessary to allocate additional resources to the implementation of this guideline. The flexibility allowed and the practices recommended in this proposed guideline are, however, intended to avoid increased expenditures by procuring agencies. For example, EPA has recommended that the form for estimating and certifying recovered materials content be simple and that it be consistent with the procuring agency's usual contracting procedure.

On the basis of the above information and on more extensive data in the rulemaking docket, the Agency has

concluded that the proposed guideline is a nonmajor rule.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

Primarily because of the $10,000-threshold, EPA does not expect a substantial number of small entities to be affected. The Agency also believes that the flexible approach to procurement of paper and paper products containing recovered materials provided for in the proposed guideline will not impose a significant regulatory or economic burden on small procuring agencies, manufacturers, vendors, or contract printers. Detailed information on this assessment can be found in the RCRA docket for this guideline.

For the above reasons, I hereby certify that this proposed guideline would not have a significant econonmic impact on a substantial number of small entities. This guideline does not, therefore, require a regulatory flexibility analysis.

Paperwork Reduction Act

The information collection requirement in this proposed guideline has been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Comments on this requirement should be submitted to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place, NW., Washington, D.C., 20503, marked "Attention: Desk Officer for EPA." The final guideline package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 250

Forest and forest products, Government contracts, Government procurement, Packaging and containers, Paper, Recycling, Resource recovery.

Dated: April 2, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, it is proposed to amend 40 CFR by adding a new Part 250 to read as follows.

PART 250—GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

Subpart A—General

Sec.

Subpart B—Revisions and Additions to Paper and Paper Product Specifications

Subpart C—Affirmative Procurement Program for Paper Containing Postconsumer Recovered Materials

Authority: 42 U.S.C. 6962.

Subpart A—General

§ 250.1 Purpose.

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended by the Solid Waste Disposal Act Amendments of 1980 (42 U.S.C. 6962), as amended by the Hazardous and Solid Waste Amendments of 1984 (Pub.L. 98–616), as that section applies to paper and paper products.

(b) This guideline contains recommendations for implementing the requirements of section 6002 of RCRA, including the revision of specifications and the establishment of an affirmative program for the procurement of paper and paper products containing postconsumer recovered materials. The guideline also makes recommendations concerning the solicitation for bids and certification and verification procedurees. In addition, the guideline sets dates for compliance.

(c) The Agency believes that adherence to the practices recommended in the guideline constitutes compliance with Section 6002 of RCRA, as it relates to the purchase of paper and paper products containing recovered materials.

§ 250.2 Designation.

Under Section 6002(e)(2) of RCRA, paper and paper products that contain recovered materials are designated as a product for which affirmative procurement actions are required on the part of procuring agencies.

§ 250.3 Applicability.

(a) This guideline applies to all paper and paper products purchased with appropriated Federal funds.

(b) This guideline applies to all procuring agencies and to all procurement actions in which the agency purchases a procurement item, as defined in § 250.4, with appropriated Federal funds, when the purchase price of the item exceeds $10,000, or where the quantity of such items or of functionally equivalent items purchased with appropriated Federal funds during the preceding fiscal year was $10,000 or more. For purposes of this guideline, each item listed in each category below is considered functionally equivalent to every other item in the category: all grades and types of xerographic/copy paper; newsprint; all grades and types of printing paper; corrugated boxes, fiberboard boxes, and folding boxboard; stationery, office papers (e.g., memo pads, scratch pads, and envelopes); toilet tissue, paper towels, facial tissue, paper napkins, and doilies; and brown papers, coarse papers, and industrial wipers.

(c) Procurement actions covered by this guideline include:

(1) All purchases of paper or paper products made directly by a procuring agency or by any person directly in support of work being performed for a procuring agency, for example, contract printing; and

(2) Indirect purchases of paper and paper products made by a procuring agency, such as purchasing resulting from Federal grants, loans, and similar forms of disbursements of monies that the procuring agency intended to be used for the procurement of paper or paper products.

(d) Purchases of paper and paper products that are unrelated or incidental to Federal funding, i.e., not the direct result of a Federal contract, grant, loan, funds disbursement, or agreement with a procuring agency, are not covered by this guideline.

§ 250.4 Definitions.

As used in this guideline, the following terms shall have the meaning indicated below:

"Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Solid Waste Disposal Act Amendments of 1980, as amended (42 U.S.C. 6901 *et seq.*), and

the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616);

"Bleached papers" means paper made of pulp that has been treated with bleaching agents;

"Brown papers" means papers usually made from unbleached kraft pulp and used for bags, wrapping, and so forth;

"Coarse papers" means papers used for industrial purposes, as distinguished from those used for cultural or sanitary purposes;

"Corrugated boxes" means boxes made of corrugated paperboard, which, in turn, is made from a fluted corrugating medium pasted to a flat sheet of paperboard (linerboard); multiple layers may be used;

"Doilies" means paper place mats used on food service trays in hospitals and other institutions;

"Envelopes" means brown, manila, padded, or other mailing envelopes not included with "stationery";

"Facial tissue" means a class of soft absorbent papers in the sanitary tissue group;

"Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including a government corporation, and the Government Printing Office;

"Fiberboard boxes" means boxes made from containerboard, either solid fiber or corr-gated paperboard (general term); or boxes made from solid paperboard of the same material throughout (specific term);

"Folding boxboard" means a paperboard suitable for the manufacture of folding cartons;

"Industrial wipers" means paper towels especially made for industrial cleaning and wiping;

"Newsprint" means paper of the type generally used in printing newpapers. It is lightweight, nondurable, low-cost paper made primarily from mechanical pulps;

"Office papers" means note pads, loose-leaf fillers, tablets, and other papers commonly used in offices, but not defined elsewhere;

"Offset printing paper" means an uncoated or coated paper designed for offset lithography;

"Paper" means one of the two broad subdivisions of paper products, the other being paperboard. Paper is generally lighter in basis weight, thinner, and more flexible than paperboard. Sheets 0.012 inch or less in thickness are generally classified as paper. Its primary uses are for printing, writing, wrapping, and sanitary purposes;

"Paper napkins" means special tissues, white or colored, plain or printed, usually folded, and made in a variety of sizes for use during meals or with beverages;

"Paper product" means any item manufactured from paper or paperboard. The term "paper product" is used in this guideline to distinguish such items as boxes, doilies, and paper towels from printing and writing papers;

"Paper towels" means paper toweling in folded sheets, or in raw form, for use in drying or cleaning, or where quick absorption is required;

"Paperboard" means one of the two broad subdivisions of paper, the other being paper itself. Paperboard is usually heavier in basis weight and thicker than paper. Sheets 0.012 inch or more in thickness are generally classified as paperboard. The broad classes of paperboard are containerboard, which is used for corrugated boxes; boxboard, which is principally used to make cartons; and all other paperboard;

"Printing paper" means any paper suitable for printing, such as book paper, bristols, and writing paper;

"Procurement item" means any device, good, substance, material, product, or other item, whether real or personal property, that is the subject of any purchase, barter, or other exchange made to procure such item;

"Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State that is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

"Recovered materials" means waste material and by-products that have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term "recovered materials" includes:

(a) Postconsumer materials such as:

(1) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end usage as a consumer item, including: used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage, and

(2) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

(b) Manufacturing, forest residues, and other wastes such as:

(1) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(2) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(3) Fibrous by-products of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

(4) Wastes generated by the conversion of goods made from fibrous material (e.g., waste rope from cordage manufacture, textile mill waste, and cuttings); and

(5) Fibers recovered from waste water that otherwise would enter the waste stream;

"Specification" means a detailed description of the technical requirements for materials, products, or services that specifies the minimum requirement for quality and construction of materials and equipment necessary for an acceptable product. Specifications are generally in the form of a written description, drawings, prints, commercial designations, industry standards, and other descriptive references;

"State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

"Stationery" means writing paper suitable for pen and ink, pencil, or typing. Matching envelopes are included in this definition;

"Tabulating cards" means cards used in automatic tabulating machines;

"Tabulating paper" means tabulating forms for use on automatic data processing equipment with a sprocket-feed mechanism;

"Toilet tissue" means a sanitary tissue paper. The principal characteristics are softness, absorbency, cleanliness, and adequate strength (considering easy disposability). It is marketed in rods of varying sizes or in interleaved packages;

"Unbleached papers" means papers made of pulp that has not been treated with bleaching agents;

"Xerographic/copy paper" means any grade of paper suitable for copying by

the xerographic process (a dry method of reproduction).

Subpart B—Revisions and Additions to Paper and Paper Product Specifications

§ 250.10 Introduction.

This subpart offers guidance to Federal agencies that draft or review specifications for paper and paper products.

§ 250.11 Elimination of recovered materials exclusion.

By May 9, 1986, each Federal agency must assure that its specifications do not unfairly discriminate against the use of recovered materials. At a minimum, except as noted in § 250.13, each Federal agency must:

(a) Revise those specifications, standards, and procedures that currently require that paper and paper products contain only virgin materials to eliminate this restriction; and

(b) Revise those specifications, standards, and procedures that prohibit using recovered materials in paper and paper products to eliminate this restriction.

§ 250.12 Requirement of recovered materials content.

(a) Within one year of publication of this guideline, paper and paper product specifications must ensure that recovered materials will be required to the maximum extent possible without jeopardizing the intended end use of the paper or paper product.

(b) Except as noted in § 250.13, each specification should include a statement substantially similar to the following:

> Recovered materials content to the maximum extent feasible is required, provided that the other requirements of this standard are met. Paper and paper products with recovered materials content are preferred over those without such content.

(c) Specifications that are overly stringent for a particular end use and that bear no relation to functionality, such as brightness and whiteness for copy paper, should be revised in order to allow for a higher recovered materials content. Specifications that bear no relation to functionality should be revised according to an agency's established review procedure. In determining the relationship to functionality of existing specifications, Federal agencies should make maximum use of existing voluntary standards and research by organizations such as the American Society for Testing and Materials' committees D6, D10, and F5; the Technical Association of Pulp and Paper Industry; and the American Institute of Paper Chemistry.

§ 250.13 Exclusion for products containing recovered materials that do not meet reasonable performance standards.

(a) Notwithstanding the requirements of § 250.11 and § 250.12 of this section, Federal agencies need not revise specifications to require the use of recovered materials if it can be technically determined that for a particular end use a product containing recovered materials will not meet reasonable performance standards.

(b) Any determination under this paragraph should be documented by the drafting and reviewing agency and be based on technical performance information related to a specific item, not a grade of paper or type of product. Agencies should reference such documentation in subsequent solicitations for the specific item in order to avoid repetition of previously documented points.

§ 250.14 New specifications.

When paper or a paper products containing recovered materials is produced in types and grades not previously available, new specifications should be developed for such type or grade.

Subpart C—Affirmative Procurement Program for Paper Containing Postconsumer Recovered Materials

§ 250.20 Elements of affirmative procurement program.

Within one year after the publication of the final guideline, procuring agencies must establish an affirmative procurement program consisting of the following elements:

(a) A preference program for procurement of paper and paper products containing postconsumer recovered materials consisting of one of the following:

(1) A policy of awarding contracts, on a case-by-case basis, to the vendor offering an item composed of the highest percentage of postconsumer recovered materials practicable, subject to the limitations based on competition, availability, performance, and price described in Section 6002(c)(1)(A)–(C) of the Act and § 250.21, or

(2) Minimum recovered materials content standards that assure that the postconsumer recovered materials content required is the maximum available without jeopardizing the intended end use of the item or violating the limitations of Section 6002(c)(1)(A)–(C) of the Act and § 250.21, or

(3) A substantially equivalent alternative to paragraph (a) (1) or (2).

(b) A promotion program to promote the preference program adopted under paragraph (a) of this section. Under the program, procuring agencies should consider all possible promotional methods including the following:

(1) A special notation prominently displayed in any paper or paper product procurement solicitation or invitation to bid.

(2) A statement in each paper specification defining "postconsumer recovered materials" as they are defined in § 250.4.

(3) A brief statement in advertisements of bids describing the preference program. Such advertisements should be placed in the *Commerce Business Daily* and periodicals commonly read by vendors of paper and paper products containing postconsumer recovered materials.

(4) Any catalog listing of available products (such as GSA's *Office Supplies*) indicating which paper or paper product contains postconsumer recovered materials.

(5) Discussion of the preference program at prebidders' conferences or similar meetings of potential bidders.

(c) A program for estimates, certification, and verification.

(1) Agencies must require estimates of the total percentage of postconsumer recovered materials utilized in the performance of a contract.

(2) Vendors must certify the minimum postconsumer recovered materials actually utilized.

(3) There must be reasonable verification procedures for estimates and certifications, e.g., the procuring agency may state in solicitations for bids that, in the case of a bidder's protest, all estimates and certifications will be subject to audits of mill records.

(d) A program for review and monitoring.

(1) Each agency must conduct an annual review and monitoring of the effectiveness of its affirmative procurement program.

(2) The annual review should include an estimate of the quantity of paper and paper products purchased containing postconsumer recovered materials.

§ 250.21 Limitations to affirmative procurement program.

A decision not to procure paper or paper products containing postconsumer recovered materials may be based only on one or more of the following factors: Lack of competition among vendors; lack of reasonable availability within a reasonable time period; failure to meet the performance standards in the solicitation for bids or in the reasonable performance standards of the agency; or unreasonable price. For purposes of this guideline, "unreasonable price" is any price other than the price offered in the lowest responsive bid.

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H.R. 1239/Pub. L. 99-10

Making urgent supplemental appropriations for the fiscal year ending September 30, 1985, for emergency famine relief and recovery in Africa, and for other purposes. (Apr. 4, 1985; 99 Stat. 27) Price: $1.00

S.J. Res. 79/Pub. L. 99-11

To designate April 1985, as "Fair Housing Month". (Apr. 4, 1985; 99 Stat. 30) Price: $1.00

S.J. Res. 62/Pub. L. 99-12

Commemorating the twenty-fifth anniversary of United States weather satellites. (Apr. 4, 1985; 99 Stat. 31) Price: $1.00

H.J. Res. 121/Pub. L. 99-13

To designate the month of April 1985 as "National Child Abuse Prevention Month". (Apr. 4, 1985; 99 Stat. 33) Price: $1.00

H.J. Res. 160/Pub. L. 99-14

Designating March 22, 1985, as "National Energy Education Day". (Apr. 4, 1985; 99 Stat. 35) Price: $1.00

H.R. 1866/Pub. L. 99-15

To phase out the Federal supplemental compensation program. (Apr. 4, 1985; 99 Stat. 37) Price: $1.00

S.J. Res. 50/Pub. L. 99-16

To designate the week of April 1, 1985, through April 7, 1985, as "World Health Week", and to designate April 7, 1985, as "World Health Day". (Apr. 4, 1985; 99 Stat. 39) Price: $1.00

S.J. Res. 71/Pub. L. 99-17

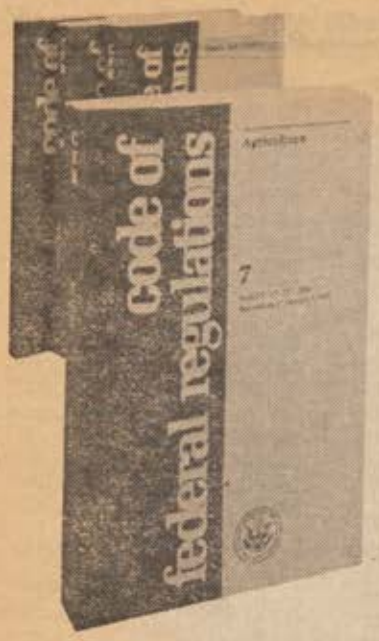
To approve the obligation of funds made available by Public Law 98-473 for the procurement of MX missiles, subject to the enactment of a second joint resolution. (Apr. 4, 1985; 99 Stat. 41) Price: $1.00

H.J. Res. 181/Pub. L. 99-18

To approve the obligation and availability of prior year unobligated balances made available for fiscal year 1985 for the procurement of additional operational MX missiles. (Apr. 4, 1985; 99 Stat. 42) Price: $1.00

H.J. Res. 186/Pub. L. 99-19

Designating April 2, 1985, as "Education Day, U.S.A.". (Apr. 4, 1985; 99 Stat. 43) Price: $1.00



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